

April 4, 2023

A meeting of the County Commissioners of Kent County was called to order at 10:02 a.m. with the following present: Ronald H. Fithian, President, Albert H. Nickerson, and John F. Price. The meeting convened with the Pledge of Allegiance. Commissioner Fithian asked the audience to remain standing for a moment of silence for the ones affected by the storms this past week and to continue to keep the Dolgos family in our thoughts and prayers.

Thomas N. Yeager, County Attorney, was also present.

PUBLIC NOTICE

Commissioner Fithian read a public notice into the record. The County Commissioners of Kent County do hereby provide public notice that on April 19, 2023, at 6:00 p.m., there will be a Five-County joint meeting of the legislative bodies of Dorchester, Talbot, Queen Anne's, Kent, and Caroline Counties. The meeting is open to the public. No later than noon on Friday, April 14, 2023, citizens may call 410-778-4600 and press 4 or email kentcounty@kentgov.org to receive further instructions and methods to observe a public meeting. The purpose of the meeting will be primarily to discuss budgetary matters concerning Chesapeake College, and any other matters that each county chooses to discuss.

CONSENT ITEMS

On a motion by Commissioner Price and seconded by Commissioner Nickerson, the Commissioners unanimously approved the following items:

1. Regular Session Minutes, March 29, 2023
2. Liquor Minutes, March 29, 2023
3. Public Hearing Minutes, March 29, 2023
4. Olde Kent Quilters, Raffle Only, November 14, 2023
5. Environmental Operations Division, Public Landings and Facilities Board (PLFB) Appointment
6. Maryland Community Development Block Grant Round 1 Quarterly Progress Report for January 1 – March 31, 2023, Grant No. CV-1-7

Upon receiving approval of Consent Item #5, Charles "Chuckie" White was reappointed to serve a five-year member term ending on June 30, 2027.

PROCLAMATION

April 2023 is Strengthening Families Month. This year's focus is "Doing Things Differently: Moving from the Challenge to the Change". Commissioner Price read the proclamation for Strengthening Families Month (formerly Child Abuse Prevention Month). The Kent Family Center staff is planning activities to boost awareness on behalf of one of their founders, Community-Based Child Abuse Prevention (CBCAP). Lisa Mazingo and Catherine Buchanan from Kent Family Center, and Christina Russell and Margaret Allen from the Department of Social Services were in attendance to receive the proclamation.

RECOGNITION

Commissioner Nickerson read a Certificate of Appreciation prepared for Jeanne Geibel. Ms. Geibel has been employed with the Kent County Public Library for forty-five (45) years and will be retiring at the end of April. Arnessa Dowell, Executive Director, Kent County Public Library was in attendance and received the certificate on behalf of Ms. Geibel.

JOINT PUBLIC HEARING - WORTON/BETTERTON KENT COUNTY ENTERPRISE ZONE DESIGNATION APPLICATION

A public hearing was held on the Worton/Betterton Kent County Enterprise Zone Designation Application. Public information regarding the above-mentioned hearing and minutes are posted on the County's website at www.kentcounty.com/commissioners/meeting-agenda.

APPOINTMENTS

Kent County Health Department: Bill Webb, Health Officer, Erika Hercher, Acting Director, and Ryan Warden Environmental Health Well and Septic Specialist, Kent County Health Department, presented an item requested by Craig Austin, property owner. Mr. Webb requested discussion regarding a water volume study. The Kent County Health Department approved an occupancy permit for a new tenant with a condition that a water meter be installed at the cost of the owner to ensure the water usage does not exceed the holding tank(s) capacity. Mr. Austin was in attendance. Discussion took place. On a motion by Commissioner Price and seconded by Commissioner Nickerson, the Commissioners unanimously approved the application and removed the requirement to install a water meter. Should a problem occur, Mr. Austin will be fully responsible for fixing the issue(s) at his cost.

Chestertown Tea Party Festival: Monica Sella and Christina Russell-Hunter, on behalf of Thomas Hayman, President, Chestertown Tea Party Festival, presented a request for the Commissioners to consider supporting the 2023 festival with \$10,000.00 that will be used to supplement needed event rental Wi-Fi assistance. Discussion took place. Scott Boone, Director, Information Technology (IT), was asked to join the conversation. Mr. Boone recommended the Commissioners grant the funds requested due to the topography of the downtown Chestertown area. There are many obstacles downtown that cause interference and there are not adequate electrical conduits to ensure the power needed during the festival. In the past, IT has found the existing Wi-Fi downtown has been unplugged during such events because the vendors or the Town of Chestertown needed the outlets. The Commissioners requested Mr. Boone spearhead a permanent solution and work with the Town. On a motion by Commissioner Price and seconded by Commissioner Nickerson, the Commissioners unanimously approved to contribute \$10,000.00 to assist with the Wi-Fi usage during the Chestertown Tea Party Festival. The funds will be taken out of the contingency funds for the project.

EMERGENCY SERVICES

Wayne Darrell, Director, Office of Emergency Services, advised the Maryland Public Safety statute 1-311 allows each county by ordinance or resolution to impose a 911 fee on all current phone bills. The current Kent County 911 fee is \$.75. The statute also permits Counties to raise the 911 fee “ If revenues attributable to the County 911 fee for the fiscal year do not provide the revenues necessary to cover a County’s operational costs for the 911 system for that fiscal year, the County may, for the following fiscal year, impose a County 911 fee sufficient to cover the County’s projected operational costs for the 911 system” The FY2022 Maryland 911 Board audit shows total 911 center operating expenses of \$1,247,43.00 and County 911 fee revenue \$193,802.00. Operational costs exceed 911 fee revenue by \$1,053,941.00. Discussion took place. After some discussion, the Commissioners tabled the request until the FY2023 budget was underway and the numbers have been carefully reviewed.

ECONOMIC AND TOURISM DEVELOPMENT

Jamie Williams, Director, Economic and Tourism Development, presented a departmental update. Staff received a lot of community support for transportation, and more particularly the summer shuttle. The County was able to secure funding through the Upper Shore Regional Council (USRC) to launch the shuttle and there is a request for an allocation in the FY2024 County budget. The project will allow another season of great data the County can utilize moving forward with improved transportation options in Kent County. The data collected will be shared with the Commissioners and the USRC. Staff utilized spring marketing, TV, radio, social media, print, and digital as means to get information out to the public. The County content can be seen in TV commercials on the 3 (three) major Baltimore stations, during regular news hours. During the January 24, 2023, meeting staff recommended the \$50,000.00 received from the Local Assistance and Tribal Consistency Fund should be allocated to fund the Millington Wastewater Treatment Facility Expansion project, out of the three (3) funded projects through the Rural Maryland Economic Development Fund this project has the most potential Economic Development impact. Discussion took place. On a motion made by Commissioner Price and seconded by Commissioner Nickerson, the Commissioners unanimously approved to allocate \$50,000.00 to be used for the Millington Wastewater Treatment Facility Expansion Project.

Commissioner Fithian asked if there was any movement with Undra Patrick, ITeVia Solutions regarding the Data Center attraction. Ms. Williams stated she had not received correspondence since the last meeting and will reach out. Ms. Williams also explained the requirements of a project at this scale. Discussion took place.

PARKS AND RECREATION

Jill Coleman, Director, Parks and Recreation, presented a departmental update. Ms. Coleman gave an overview of all the classes and sports activities scheduled and the attendance numbers. Discussion took place.

Ms. Coleman, advised during the March 14, 2023, Commissioner's meeting, the Board approved the use of Turner's Creek (meadow area) for overnight camping on September 18,

2023, by the Sultana Education Foundation and Harford Day School. Sultana has submitted the required Certificate of Liability Insurance and the Indemnity/Hold Harmless Agreement. Discussion took place. On a motion by Commissioner Price and seconded by Commissioner Nickerson, the Commissioner unanimously approved Resolution 2023-04 as presented. A Resolution is required to be signed for permission to be given to the Sultana Education Foundation and the Harford Day School for the overnight camping trip.

COUNTY ATTORNEY

Thomas Yeager, County Attorney, on behalf of Shelley Heller, advised the County received correspondence from the Attorney General's (AG's) office regarding five new proposed national opioid settlements that have reached a nationwide status. The State of Maryland has decided to move forward with four of the five settlements: Teva (manufacturer), Allergan (manufacturer), Walgreens (pharmacy chain), and Walmart (pharmacy chain). Currently, Maryland has decided to not move forward with the CVS settlement. The State is proposing to extend the terms of the 2022 State-Subdivision Agreement for the previous settlements with Distributors and Janssen Settlements with minor modifications. As before, subdivisions will receive 70 percent of the total abatement funding allocated to Maryland, with 25% coming directly from the Settlement Administrator, and another 45% distributed to subdivisions in the form of non-competitive grants. The State will receive the remainder. It is unknown at this time how much will be distributed to Kent County with these four settlements. The subdivision participation rate will be used to determine whether participation for each deal is sufficient for the settlement to move forward. Therefore, it is in the best interest of Kent County to participate. On an Administrator's Call on March 20, 2023, none of the jurisdictions present raised concerns about agreeing to extend the original State-Subdivision Agreement and signing the settlement Participation forms. Only one jurisdiction (Baltimore City) did not sign the original Agreement. The more jurisdictions that participate, the higher the settlement, and the original Agreement has been deemed fair by the vast majority of Maryland's subdivisions. The Office of Emergency Services will be recommending how this funding should be used. On a motion by Commissioner Price, seconded by Commissioner Nickerson, the Commissioners unanimously approved the "State-Subdivision Agreement with Participating Local Governments, the Settlement Participation Forms with Allergan, Teva, Walgreens and Walmart", to agree to sign the settlement participation forms for Teva, Allergan, Walmart, and Walgreens, and to delegate signature authority to the County Administrator.

LETTERS FOR SIGNATURE

The Department of Social Services received Sara England-Cunningham's resignation. Ms. England-Cunningham served as a member of the Social Services Advisory Board. A Thank you for Your Service Letter was signed.

Colonel Rodgers, a resident of Kent County that owns Parcel 0130, Lot 1-3-5 Maple Street, Map 035A requested a reconsideration of the previous decision made during the January 31, 2023, meeting. The reconsideration request was placed on the March 29, 2023, meeting agenda and further discussed by the Board and Mike Moulds, Director, Public Works. A formal letter was presented for signatures and signed by the Commissioners.

FOR YOUR INFORMATION

Donna Gunning, Executive Director, Maryland State Department of Education, The Certification of Mutual Agreement was signed on March 21, 2023, by Commissioner Fithian and submitted to the Maryland State Department of Education (MSD) as required. The Certification of Mutual Agreement was reviewed.

The Commissioners received a letter dated March 2, 2023, from F. Joseph Hickman, Chair, Kent County Planning Commission. The letter explained the Planning Commission's general review process of the Comprehensive Rezoning and Update (CRU) Task Force's recommendations related to the CRU.

Senator Guy Guzzone, Chair, and Members of the Budget and Taxation Committee requested a letter of support. House Bill 1196 – Blueprint for Maryland's Future Implementation – Funding and Independent Evaluation – Alterations, Altering certain education funding formulas; requiring, in fiscal years 2025 and 2026, each county board of education to provide for the Blueprint for Maryland's Future Implementation coordinator in the County; requiring the implementation coordinator's salary to be paid for by the State and the county in a certain proportion; altering dates by which the entity contracted to perform an independent evaluation of the implementation of the Blueprint is required to report to the Board, etc. A letter of support was signed on March 27, 2023, by Shelley Heller, County Administrator on behalf of the County Commissioners.

PUBLIC COMMENT

The procedures for public comment were in effect. Testimony was offered by Janet Christensen-Lewis and Robert Fogwell. Ms. Christensen-Lewis thanked the Commissioners for attending the Kent County's Stories Landscape Premiere/Reception on March 31, 2023. Mr. Fogwell stated the farmland he leases from the County at Toal Park was planted with soybeans that will be ready to harvest late to mid-November. Discussion took place. On a motion by Commissioner Price and seconded by Commissioner Nickerson, the Commissioners unanimously approved to modify the termination letter to state Mr. Fogwell is permitted to continue harvesting and plant soybeans and lease to terminate after soybean harvesting.

AMERICAN RESCUE PLAN ACT FUNDS (ARPA)

A copy of the American Rescue Plan Act (ARPA) Spend Plan outlining the approved expenditures to date was provided to the Commissioners for informational purposes.

CONTINGENCY FUND

The FY2023 Contingency balance as of March 29, 2023, is \$209,719.00, and the FY2023 use of Fund Balance is \$371,715.00.

CLOSED SESSION

At 12:15 p.m., a motion was made by Commissioner Price, seconded by Commissioner Nickerson, and carried unanimously to go into a closed session to discuss personnel matters. The meeting was closed under the Annotated Code of Maryland, General Provisions Article §3-305 (b)(2) To protect the privacy or reputation of individuals concerning a matter not related to public business, (b)(7) To consult with counsel to obtain legal advice; and (8) To consult with staff, consultants, or other individuals about pending litigation. Three separate matters were discussed.

Thomas N. Yeager, County Attorney; Lacey T. Cox, Deputy Clerk II, and Tonya L. Thomas, Deputy Clerk II, were also in attendance.

JOB PERFORMANCE

Topic to be discussed: The job performance and compensation related to services provided by a vendor.

Reason for closing: Matters relating to job performance and compensation for the services provided by a vendor are confidential.

Jillyn Coleman, Director, Parks and Recreation, joined the closed session and explained the details of a personnel request. Thomas N. Yeager, County Attorney determined that a vendor committed a material breach of contract. Mr. Yeager sent a letter dated January 6, 2023, to the responsible persons. Mr. Yeager offered legal advice connected to any potential legal action and the vendor's non-performance. Ms. Coleman departed the closed session.

POTENTIAL LITIGATION

Topic to be discussed: Legal Claim

Reason for closing: Legal Claims are confidential and should be shielded.

Jim Miller, Director, Human Resources joined the closed session. Mr. Yeager provided a copy of a confidential letter dated March 23, 2023. Mr. Yeager and Mr. Miller agreed upon a recommended course of action. Mr. Miller departed the closed session.

PRIVACY OR REPUTATION OF INDIVIDUALS CONCERNING UNRELATED PUBLIC BUSINESS

Topic to be discussed: Letters of Credits/Bonds issued to a property for collection.

Reason for closing: Matters relating to release of Letters of Credits/Bonds should be private and confidential.

Commissioner Fithian asked Bill Mackey, Director of Planning, Housing, and Zoning to join the discussion. Commissioner Price requested information regarding Letters of Credits/Bonds. Mr. Mackey explained the intent of the Letters of Credit/Bonds and how the process proceeds once they have been issued. Discussion only, no action.

OPEN SESSION

Commissioner Fithian summarized the closed-session matters and stated the Board discussed personnel issues, legal matters, and Letters of Credits/Bonds. Two matters discussed were for advisory and information purposes only, with no action. On a motion by Commissioner Price, and seconded by Commissioner Nickerson, the Board unanimously agreed to instruct staff to fulfill a personnel contract that supports a fair employment process.

Commissioner Fithian discussed the Brett Nelson property located on Route 291, Millington Road. The property was purchased some years ago and a building permit was denied until specific requirements were met. There have been multiple discussions regarding this parcel as well as a letter sent to the State of Maryland with no correspondence received. Commissioner Fithian asked staff to provide the Board with the Comprehensive Water and Sewer Plan for review. Mr. Yeager offered legal advice. Commissioner Fithian asked that further discussion occur after all parties review the file.

At 1:26 p.m., on a motion by Commissioner Nickerson and seconded by Commissioner Price, the Commissioners unanimously approved adjourning the meeting. The Board is scheduled to meet again on Wednesday, April 18, 2023, at 6:00 p.m.

Respectfully submitted,

Lacey T. Cox
Deputy Clerk II

Approved:

Ronald H. Fithian, President
The County Commissioners
of Kent County, Maryland

April 4, 2023

PUBLIC HEARING

County Commissioners Ronald H. Fithian, Presiding, Albert H. Nickerson, and John F. Price, were in attendance as well as Thomas N. Yeager, County Attorney, and Jamie Williams, Director, Economic and Tourism Development.

The rules for the public hearings were in effect. Thomas N. Yeager, County Attorney read both public hearing notices into the record and reviewed the procedures for testifying.

WORTON/BETTERTON KENT COUNTY ENTERPRISE ZONE DESIGNATION APPLICATION

Mr. Yeager abridged the public hearing protocol and administered the Oath to all applicants, staff, and anyone who wished to testify. The rules for a public hearing were in effect.

The public hearing commenced at 10:19 a.m. in the County Commissioners' Hearing Room, R. Clayton Mitchell, Jr., Kent County Government Center, 400 High Street, Chestertown, MD. A public hearing to discuss a Worton/Betterton Kent County Enterprise Zone Designation Application. Mr. Yeager read the notice of public hearing into the record.

Jamie Williams, Director, Economic and Tourism Development gave an overview of the Enterprise Zone (EZ) Designation. The EZ program provides real property tax credits for businesses and state income tax credits for employees located in a Maryland Enterprise Zone in return for job creation and capital investments. On November 10th, confirmation was received from the Maryland Department of Commerce that Census Tract 9502 on the Betterton map met the criteria for an EZ Tax Credit application. In order to apply for designation as an enterprise zone, the area must meet the following requirements, as outlined in Economic Development Article, § 5-704:

1. The entire area for which the county and/or municipality is applying for enterprise zone designation must have been designated as a priority funding area or meet an exception under State Finance and Procurement Article, Subtitle 7B, Annotated Code of Maryland.

2. The area for which the County and/or municipality is applying for enterprise zone designation must satisfy at least one of the following four requirements:

- The average rate of unemployment is at least 150 percent of the average rate of unemployment in either the State of Maryland or the United States, whichever average rate is greater during that same period.
- The population is a low-income poverty area in which the proportion of families with less than poverty-level incomes is at least 1.25 times the national proportion;
- At least 70 percent of the families have incomes that are less than an amount equal to 80 percent of the median family income within the political subdivision in which the area is located; or the population in the area decreased by 10 percent between the date of the most recent census and the date of the immediately preceding census and either chronic abandonment or demolition of the property is occurring in that area or substantial property tax arrearages exist within the area.

Census Tract 9502 meets the criteria based on the 150% Unemployment Rate metric. The key incentive is the local (Town and County) property tax credit, a 10-year credit on the increased assessed value of the expansion, renovation, or capital improvement. The amount of the annual credit is 80% of the “eligible assessment” in each of the first five years. The credit decreases by 10% annually for each of the subsequent five years. The state reimburses the Town and County 50% of the credit issued. Creating an EZ does not change or otherwise affect local zoning control, regulations, or ordinances. An EZ program is a valuable incentive to promote job creation and capital investment within the existing business community and an essential tool to position Kent County to compete with surrounding jurisdictions to attract new businesses to our communities. Parcels are located in the County and the Town in the proposed EZ, the County, and Town must jointly apply for the EZ designation. Ms. Williams stated that an EZ program is a valuable incentive to promote job creation and capital investment within the existing business community and is an essential tool to position Kent County to compete with surrounding jurisdictions to attract new businesses to our communities. Discussion took place.

Testimony was offered by Dick Story, Tom Mogle, Town Manager, Town of Betterton, and Mike Waal, residents of Kent County in support of the Worton/Betterton Kent County Enterprise Zone.

On a motion by Commissioner Price, seconded by Commissioner Nickerson, the Commissioners unanimously approved the Resolution and directed staff to submit the Worton/Betterton Enterprise Application to the Maryland Department of Commerce as presented. The Board signed and adopted Resolution 2023-03 Support Of An Application For A Worton/Betterton Kent County Enterprise Zone Designation.

Respectfully submitted,

Lacey Cox
Deputy Clerk II

Approved:

Ronald H. Fithian, President
The County Commissioners
of Kent County, Maryland

April 4, 2023

The Board of License Commissioners met today with the following present: Ronald H. Fithian, presiding, Albert H. Nickerson, and John F. Price.

Thomas N. Yeager, County Attorney, and Bonnie S. Pearsall, Inspector, Kent Alcohol and Tobacco Enforcement were also present.

CONSENT ITEM

On a motion by Commissioner Price and seconded by Commissioner Nickerson, the Commissioners unanimously approved Consent Item #2 - Liquor Minutes, March 29, 2023.

PUBLIC NOTICE

Commissioner Fithian read a public notice into the record. Notice, Application has been made by members: Christopher J. Golder and William T. Irvin, representing Waterman's Hospitality, LLC for a Class B, Beer, Wine, and Liquor License with Extended Privilege (EXPR) on the premises known as: Waterman's Crab House, 21055 West Sharp Street, Rock Hall, MD 21661, which shall authorize the holder thereof to sell Beer, Wine, and Liquor at Retail, at the place therein described, for on-premises consumption, or elsewhere. A hearing on the application will be held in the County Commissioners' Hearing Room, R. Clayton Mitchell, Jr. Government Center, 400 High Street, Chestertown, MD on April 25, 2023, at 10:00 a.m. at which time any exceptions to the application will be heard.

PUBLIC HEARING PROTOCOL

Thomas N. Yeager, County Attorney reviewed the public hearing protocols. The hearing was duly advertised to be held by the undersigned in the County Commissioners' Hearing Room, R. Clayton Mitchell, Jr. Government Center, 400 High Street, Chestertown, MD on April 4, 2023, at 10:00 a.m. at which time any exceptions to the applications would be heard.

Mr. Yeager administered the Oath to applicant Sharon Bryden Ford, Vice President, Bonnie Pearsall, Inspector, Kent Alcohol and Tobacco Enforcement (KATE), and anyone wishing to testify. The rules for a public hearing were in effect.

FORD'S SEAFOOD, INC., CLASS B, BEER LICENSE

The hearing commenced at 10:17 a.m. Mr. Yeager read the notice into the record. An application was made by Nevitte W. Ford, President, and Sharon Bryden Ford, Vice President, representing Ford's Seafood, LLC, for a Class B, Beer License. The applicants' restaurant is an existing business operating on the premises of 21459 Rock Hall Road in Rock Hall, MD, 21661. The license shall authorize the holder thereof to sell beer at retail, at the place therein described, for on-premises consumption, or elsewhere.

Mr. Yeager stated a legal review of the application for a Class B License was complete. Inspector Pearsall reported an onsite inspection of the premises was done. Ms. Ford explained their business plan regarding their restaurant services. Staff recommends approval of the application without contingencies.

No other comments were offered in favor of or in opposition to the application. There being no objections, Commissioner Price made a motion to approve the application. The motion was seconded by Commissioner Nickerson; the Commissioners unanimously approved the application as recommended.

At 1:26 p.m., a motion was made by Commissioner Nickerson, seconded by Commissioner Price, and the Commissioners unanimously approved adjourning the meeting. The Board is scheduled to meet again on Tuesday, April 18, 2023, at 6:00 p.m.

THE BOARD OF LICENSE COMMISSIONERS
OF KENT COUNTY, MARYLAND

Lacey T. Cox
Deputy Clerk II

Approved:

Ronald H. Fithian, President
The County Commissioners
of Kent County, Maryland