

COUNTY COMMISSIONERS OF CAROLINE COUNTY
109 Market Street, Room 106, Denton, Maryland
MINUTES
September 25, 2018

Present: President Larry C. Porter, Wilbur Levensgood, Jr., Vice President; Daniel J. Franklin; Commissioner; Chief of Staff Sara Visintainer; and County Attorney, Heather Price

Following the pledge of Allegiance, President Porter called for **Public Comment** and there was none.

On motion by Commissioner Franklin, seconded by Commissioner Levensgood, the Commissioners convened into **Legislative Session** for the following:

Legislative Session: Third Reading and Potential Enactment Legislative Bill #2018-1, Chapter 166 – Taxation – Development Excise Tax – Elimination: Ms. Visintainer stated that the purpose of Legislative Bill #2018-1 is to simply delete the development excise tax from the County code. She stated that excise tax is currently being collected in the County, however, in order for the Commissioners to approve an impact fee, they must first eliminate the County excise tax. On motion by Commissioner Levensgood, seconded by Commissioner Franklin, the Commissioners unanimously voted to adopt Legislative Bill #2018-1, and to set the effective date as December of 7, 2018.

Legislative Session: Third Reading and Potential Enactment Legislative Bill #2018-2, Chapter 167 –Development Impact Fees – Creation: Ms. Visintainer stated that both County staff and the County Attorney worked to put together ten suggested amendments for this Bill, which the Commissioners have workshopped in previous meetings. She stated that each amendment would need to be voted on individually.

Amendment 1.

On page 7, § 167-5C(4)(ii), after “in which real estate taxes are collected” insert “and in accordance with §20-127 of the Local Government Article of the Annotated Code of Maryland.”

Rationale: Adds clarity that collection is limited by time constraints set in State law.

On motion by Commissioner Levensgood, seconded by Commissioner Franklin, the Commissioners unanimously voted to amend Legislative Bill #2018-2 as described above.

Amendment 2.

On page 7, § 167-5C(4)(iiI), strike “The amount of such impact fee shall not exceed the amount of the excise tax which would have been due upon lot conveyance.”

Rationale: This is administratively difficult and burdensome to track, because the excise tax amount has been changed several times since first adopted in 1993. The impact created when the house is built is the same regardless of when the lot was created, so the builder of the home should pay the impact fee in place when they pull the permit. Charging different amounts for the same impact would place a disproportionate burden on those paying a higher rate. Regardless of what a previous tax rate may have been, the impact fee rate set by the Ordinance will be applied equally, unless exempted as provided by the Ordinance.

On motion by Commissioner Franklin, seconded by Commissioner Levensgood, the Commissioners unanimously voted to amend Legislative Bill #2018-2 as described above.

Amendment 3.

On page 10, § 167-7, in the section heading, after “Imposition” insert “, Payment”.

Rationale: Adds clarity and more accurately describes the section.

On motion by Commissioner Levensgood, seconded by Commissioner Franklin, the Commissioners unanimously voted to amend Legislative Bill #2018-2, as described above.

Amendment 4.

On page 10, § 167-7B, after “of the Local Government Article” insert “of the Annotated Code of Maryland.”

Rationale: Is a more exact reference and is parallel with how State law is cited in other sections of the Bill.

On motion by Commissioner Levensgood, seconded by Commissioner Franklin, the Commissioners unanimously voted to amend Legislative Bill #2018-2, as described above.

Amendment 5.

On page 13, § 167-11A(2), after “of a development impact fee” insert “as set forth in § 167-5”.

Rationale: Adds clarity for the reader and ties the determination to the standards set forth earlier in the law.

On motion by Commissioner Franklin, seconded by Commissioner Levensgood, the Commissioners unanimously voted to amend Legislative Bill #2018-2, as described above.

Amendment 6.

On page 14, § 167-12B(4), strike “167-20” and substitute “167-16”

Rationale: Corrects erroneous citation.

On motion by Commissioner Levensgood, seconded by Commissioner Franklin, the Commissioners unanimously voted to amend Legislative Bill #2018-2, as described above.

Amendment 7.

On page 14, § 167-12C, after “§ 167-12B(2) above” strike “and consistent with applicable procedures set forth in § 167-20 below,”.

Rationale: Corrects erroneous citation.

On motion by Commissioner Franklin, seconded by Commissioner Levensgood, the Commissioners unanimously voted to amend Legislative Bill #2018-2, as described above.

Amendment 8.

On page 15, § 167-13B, strike “B. Failure of County to use or appropriate development impact fee funds within time limit. The current property owner may apply for a refund of development impact fees paid by an applicant if the County has failed to use or appropriate the development impact fees collected from the applicant within the time limit established in § 167-12B unless such funds are used or appropriated in accordance with § 167-12D above.”

Rationale: Maryland case law on development impact fees does not require the County to provide a refund as outlined in this section.

On motion by Commissioner Levensgood, seconded by Commissioner Franklin, the Commissioners unanimously voted to amend Legislative Bill #2018-2, as described above.

Amendment 9.

On page 15, § 167-13E(3), strike “(3) Applications for refunds due to the failure of the County to appropriate development impact fees collected from the applicant within the time limits established in § 167-12B(2) shall be made by the current property owner on forms provided by the County and shall be made within 180 days of the expiration of such time limit. If a portion of the impact fees collected during a fiscal year have been expended or encumbered before the end of the sixth year following collection, the designated County office shall distribute refunds to the eligible property owner on a pro rata basis. The refund applicant shall submit:

- (a) Evidence that the refund applicant is the property owner or the designated agent of the property owner;
- (b) The amount of the development impact fees paid by public facility category and receipts evidencing such payments; and
- (c) Documentation of the County's failure to appropriate development impact fee funds for relevant public facilities within the time limits established in § 167-12B(3).”

Rationale: Section is made obsolete by Amendment 8.

On motion by Commissioner Franklin, Seconded by Commissioner Levensgood, the Commissioners unanimously voted to amend Legislative Bill #2018-2, as described above.

Amendment 10.

On page 16, § 167-13H, strike “H. Appeal. The decision of the Planning Director shall be a final administrative decision from which an appeal as provided in § 167-14 of this Chapter may be taken.”

Rationale: This Section was made obsolete when we removed the general appeal language in the first draft – we can't confer jurisdiction to any Maryland Court, and the state enabling law does not embody/grant a right to appeal.

On motion by Commissioner Franklin, seconded by Commissioner Levensgood, the Commissioners unanimously voted to amend Legislative Bill #2018-2, as described above.

Staff stated that Legislative Bill #2018-2 Chapter 167 – Development Impact Fees — Creation, would be drafted with the updated amendments and reposted on the County website. Ms. Visintainer also stated a second public hearing had been advertised as requested for October 9, and inquired if the Commissioners wished for her to make direct notification to anyone, which they indicated they did not.

A discussion took place regarding the exemption in the bill for farm lots and the definition of a farm in Caroline County's laws. Ms. Visintainer stated that in the County Code, a farm is currently defined as being a minimum of 20-acres. Commissioner Franklin stated that he thinks 20 acres is too big and would like to change the definition to include smaller farms. Ms. Visintainer stated that the Commissioners could update the Code and change the definition of a farm, however they would need to discuss the change with the Planning Commission, since changing the definition in the Zoning Chapter is a text amendment and the Planning Commission has the right to review and comment on such changes. Staff was asked to refer the issue to the Planning Commission for their discussion and input.

On motion by Commissioner Franklin, seconded by Commissioner Levensgood, the Commissioner adjourned Legislative Session and reconvened into regular session.

Consent Agenda: the following items were approved by unanimous consent:

- Minutes: Open Session of August 28, 2018 and September 11, 2018
- P.O # 2019-139, Blue Tech LLC, Upfitting of 3 Sheriff's Vehicles, \$43,270.89
- Joint-Use Agreement, Ridgley Car Show
- Resolution #2018-029, Disposal of Surplus County Equipment
- Resolution #2018-030, General Fund Unrestricted Fund Balance and Use Policy
- Renewal Part-Time Employment Contract, Recreation and Parks Specialist I (Hanrahan)
- Reappointment to Caroline County Trades Board (Mann, Kitchen)
- Reappointment to Caroline County Length of Service Award Program (Balderson)

Acting County Administrator Report:

- Ms. Visintainer stated that she has been communicating with the Maryland Association of Counties (MACo), to see what possible State legislation may be possible relative to school construction costs.
- She informed the Commissioners that the property located at River Road, which was in a code violation, will be demolished within the upcoming weeks. Staff in the Planning Department will stay on top of the situation to make sure the property owner follows through on demolition of the unsafe structure.
- She stated that Commissioner Levensgood will be sitting in on a Kirwan Commission call later on in the week. She stated that the group that has reached out has decided to hire a company to help with a public relations and media strategy, and they are asking if local county members would like to be involved.

Commissioners Open Discussion Period:

Commissioner Franklin stated that he attended the meeting at the Board of Education and he also enjoyed his Shore Leadership trip. He stated that he and Commissioner Levensgood also enjoyed a tour of the Port of Biltmore with the Mid Shore Regional Council.

At 7:13 p.m. On motion by Commissioner Franklin, seconded by Commissioner Levensgood, the Commissioners unanimously moved into Closed Session for the following purpose: Discussion of the Performance and assignment of specific employees. Authority: 2014 Md. Code, State Government 3-305(b)(1).

At 8:23 p.m. on motion by Commissioner Franklin, seconded by Commissioner Levensgood, the Commissioners unanimously moved out of closed session and into open session.

Presidents Report: President Porter stated that the Commissioners met with the Chief of Staff and County Attorney to discuss concerns with the performance of an at-will employee. The Commissioners also discussed the appointment of an at-will position.

There being no further business, the Commissioners adjourned their meeting at 8:25 p.m.


Jennifer M. Farina

Administrative Coordinator