



Maryland Municipal Attorneys Association

Brynja Booth, President; Lynn Board, Vice President; Frank Johnson, Secretary; Jason DeLoach, Treasurer

MINUTES FOR MAY 3, 2018 MEETING

APPROVED NOVEMBER 8, 2018

The Thursday, May 3, 2018 MMAA meeting was held at Fisherman's Inn at Kent Narrows. Brynja Booth, President, called the meeting to order at about 12:15 p.m. She thanked speaker John Markovs, Deputy County Attorney for Montgomery County, and asked everyone to briefly introduce themselves.

1. Minutes of the February 8, 2018 MMAA meeting were unanimously approved, on motion by Linda Perlman and seconded by Jason DeLoach.
2. Treasurer Jason DeLoach reported \$3,330 in the MMAA checking account as of the last statement for March, which does not include any deduction for the costs for today's lunch. He also noted that this amount will increase with the annual dues invoices to be sent by regular mail for FY 19, in the amount of \$50.00, as of July 1.
3. President Booth announced that nominations had been received for all positions and committee representatives for 2018-2019 – Brynja Booth for President, Lynn Board for Vice President, Frank Johnson for Secretary and Jason DeLoach for Treasurer; and Eliot Schaefer as MMAA representative on the MML Legislative Committee, with Elissa Levan as MMAA representative on the MML Board of Directors. Tom Yeagher moved to close the nominations, which was duly seconded and approved unanimously. Tom Yeagher then moved to approve the nominees as officers for 2018/2019, which was duly seconded and unanimously approved by members.
4. Brynja noted we are planning a joint municipal/county attorney meeting, with support from MML and the Maryland Association of Counties (MACo) staff, including Les Knapp. Tom Yeagher, who serves several municipalities and as County Attorney for Kent County, and is current President of the MACo attorneys chapter, suggested the fall meeting in November would probably be a good time, and that a location around Annapolis could be best. As to possible topics, policing issues and the use of body cameras was noted, and Brynja noted officers, including Tom and anyone else with an interest, would work with MACo to consider others. Brynja finally noted we are tentatively planning for this meeting as the MMAA fall meeting in November.
5. Brynja also noted our summer meeting will be on Monday, June 11 at the MML Convention. She will discuss the recent court of appeals case in which counties were granted the ability to retract any 5-year density waivers granted during the annexation process, and we'll also host a roundtable.
6. On general questions, Brynja noted an issue raised as to the impact of the Healthy Working Families Act, Md. Labor and Employment Code Ann., §3-1301 *et seq.*, which now requires sick leave for part time workers who work 12 hours or more weekly. She asked whether we considered elected officials as part time staff subject to the Act. It was noted many do not have the 15 staff to fall under the Act, but might if elected officials were added; it was also noted that the 12-hour-per-week requirement may be a challenge to satisfy in some cases. For elected officials, Lynn Board noted that with changes in handling sexual harassment claims by the General Assembly for their members, municipalities may wish to consider how they would handle such claims against elected officials; all have some provisions for staff, but most have no provisions currently for such claims against elected officials.
7. Justin Fiore, MML Manager of Government Relations, provided an MML update on key legislation considered or enacted during the General Assembly session. Overall he noted the session was largely a success for municipalities, both as to legislation passed and not enacted. As to MML priorities, Highway User Revenues,

slashed by 90% or more starting in 2009, was with a signed bill 85% restored at least for the next 5 years, with an additional \$15 million on capital grants in the approved FY 19 budget. As to the Public Information Act, an emergency bill was passed and signed to require denial of distribution lists giving email addresses, physical addresses or telephone numbers of individuals. And as to permitting and siting of wireless (small cell) facilities, which was an industry drafted bill that would have largely eliminated any local or zoning control over their placement, even in front of residential homes or on municipal property, Justin noted the bill that was proposed was pulled before the hearing, and that while it may be considered in some form in future sessions, even a bill establishing a working group or task force to consider the issue was not enacted.

Lynn Board, who handled legislative matters this year for MMAA, reported that an additional exception was approved allowing a closed meeting to discuss cyber-security threats affecting computer information; an elections bill will require municipalities to establish absentee voting without requiring an excuse or reason for the request; and an ethics bill was passed requiring ethics commissions to meet at least once a year. She noted the ethics bill arose out of an individual concern with one municipality, and was originally proposed to require three meetings before being reduced to requiring only a single meeting – which would be required anyway to review and approve required ethics disclosure forms. She also noted that a bill requiring a public hearing and 21 days' notice for any Charter amendment was passed, which most municipalities already currently provide. Finally, a fee shifting bill which would allow attorneys' fees to be awarded against municipalities for any successful Constitutional claim was, after nearly passing last year, defeated in both the House and Senate committees this year.

8. Lynn Board also reported on ongoing wireless facility regulation. She noted that while state legislation did not proceed, we may expect the issue to arise again, and a strong arguments against state regulation is the existence of comprehensive local laws fully regulating the issue. Thus, she and Justin both urged municipalities to address the issue with local laws and regulations, and Justin noted MML is compiling examples across the board to assist. As to the Federal Communications Commission, it is expected that at some point this year they may issue rulings which could go so far as to eliminate any local ability to affect wireless placement and impose stringent automatic "shot clocks" across the spectrum. While such an extreme ruling would likely lead to litigation, in the meantime the FCC has issued model local ordinances which they advise local governments to enact. These ordinances were prepared by a workgroup which included no local officials or staff, but only industry representatives, and would effectively eliminate any local control over facility siting. She also noted that as to individual interest in pursuing right of way installation agreements, mergers and the advent of 5G communication needs is limiting immediate interest and raising some question, at least for 5G installations, whether any co-locations are feasible.

9. John Markovs, Deputy County Attorney for Montgomery County, made a 4-part presentation on contracting and procurement policies for local governments. He first noted the goal of such processes is to ensure both the best price and goods and services, but also to ensure competitive bidding is in place. He recommended ensuring that procurement requirements are consistently satisfied, ensuring adequate review rather than sole decision makers, as well as multiple approval steps. He suggested using caution in allowing exemptions, such as those allowing sole-source contracting, but reported an increased use of the contract-riding process, in which the County comes under the provisions of another jurisdiction's contract, based on the fact it was already competitively bid. He also noted use of the Request for Expression of Interest can be used to identify prior interest and possible expertise, but that it does not solicit actual proposals. He emphasized the importance of ensuring adequate peer review of proposals and contracts, using consistent forms and formats so that contractors are treated equally across the board, and also establishing procurement policies and review processes that don't delay the contracting system, which will encourage local staff to try to find a way to avoid them entirely.

Brynja thanked John for his presentation, and with no further issues for the good of the order, the meeting was adjourned at 2:10 p.m.

Frank Johnson, Secretary