

July 16, 2012
Regular Session #13
Mayor and Council
Town of Ocean City

Mayor Richard W. Meehan
Council President James S. Hall
Council Secretary Lloyd Martin

Council Member Margaret Pillas
Council Member Mary Knight
Council Member Doug Cymek
Council Member Joe Hall
Council Member Brent Ashley

CALL TO ORDER

Council President Jim Hall called this Regular Session to order at 6:00 p.m., in the Council Chambers of City Hall, 301 Baltimore Avenue, Ocean City, Maryland 21842.

PRAYER AND PLEDGE

Chaplain Roger Wildbrandt led the prayer, and Council Member Joe Hall led the Pledge of Allegiance.

REPORT FROM CITY MANAGER ON UPCOMING WORK SESSION

City Manager David Recor reported that the following items are scheduled for the July 31, 2012 work session.

1. Report on Closed Session – Tuesday, July 31, 2012 – 11:00 a.m. – Legal, Real Estate and Personnel Matters
2. Bid Openings for: Annual Concrete Sidewalk – Repair & Replacement Contract, Annual Street Paving Contract, Annual Standby Generator Preventive Maintenance Contract, City-Wide Water Valve Exercising Project, Replacement of 14th Street Water Treatment Plant Replacement Valves, Boardwalk Phase II, Boardwalk Phase II Lumber Materials
3. Tourism Advisory Board Funding Requests Presented by: Greg Shockley, Chair
4. Overview of Dew Tour Event and Site Plan Presented by: Aileen Koprowski Sokol, Director of Competition and Event Production, Alli Sports
5. Update from Recreation and Parks Director Tom Shuster
6. Presentation of Caroline Station Design Presented by: Terence McGean, City Engineer
7. Planning and Zoning Annual Report for 2011 Presented by: Bob Nelson, Planner

8. Engineering Proposal for Design of Modifications and Improvements to the Odor Control System at the Wastewater Treatment Plant Facility Presented by: Jim Parsons, Chief Deputy Director of Public Works
9. Engineering Proposal for Design of Improvements to the Clarifiers and Sludge Pumping Buildings at the Wastewater Treatment Plant Presented by: Jim Parsons, Chief Deputy Director of Public Works
10. Engineering Proposal for Design of Improvements to the Wastewater Pumping Stations Located at (1) Dukes Avenue and (2) at Old Landing Road Presented by: Jim Parsons, Chief Deputy Director of Public Works
11. Discussion of Renegotiating Terms for the Airport Improvement Bond of 2005 Presented by: Martha Bennett, Finance Administrator

ITEMS PRESENTED BY THE MAYOR AND CITY COUNCIL

Mayor Rick Meehan presented Thomas Collins with a Key to the City to honor his 8 years of service as Town Hearing Officer for the Town of Ocean City

PRIVATE EVENT PERMIT REQUESTS

Private Events Coordinator Lisa Mitchell presented the following events for approval:

- A. Walk Out of Darkness – Saturday, September 29, 2012 Presented by: Lisa Mitchell, Private Events Coordinator and Ronald Pilling, The Jesse Klump Memorial Fund, Inc. **Council Secretary Martin moved to approve; seconded by Council Member Knight. The vote was unanimous.**
- B. 3-Year Approvals Presented by: Lisa Mitchell, Private Events Coordinator
 - (1.) 9/11 Parade of Brothers – Adding September 11, 2014
 - (2.) Sunfest Kite Festival - Adding September 18-21, 2014**Council Member Ashley moved to approve; seconded by Council Secretary Martin. The vote was unanimous.**

PUBLIC HEARINGS

City Planner Robert Nelson presented the 2012 All-Hazard Mitigation Plan (see Attachment A) **Council Member Joe Hall moved to ratify Resolution #2012-08 adopting the All-Hazard Mitigation Plan as presented; seconded by Council Member Knight. The vote was unanimous.**

UNFINISHED BUSINESS

Continued Discussion of No-Excuse Policy for Absentee Ballot Votes City Clerk Kelly Allmond advised the Council that the State of Maryland no longer requires voters to provide a reason for voting by absentee ballot. **Council Member Joe Hall moved to approve the No-Excuse Policy as presented; seconded by Council Member Ashley. The vote was 5-2 with Council Member Cymek and Knight opposed.** Council Member Pillas suggested that, in addition to adopting the “No Excuse” policy, we should also extend the deadline to submit absentee ballots through election day.

NEW BUSINESS

- A. OC Aviation Association Presentation to Mayor and City Council
Tom Oneta, OCAA President and Coleman Bunting, Treasurer presented the Council with a check for \$13,933.00 as reimbursement for the installation of the Huey Helicopter display at the Ocean City Airport.
- B. Maryland State Arts Council Application for Blue Crab Sculpture at Convention Center
Glenn Irwin, Executive Director, Ocean City Development Corporation requested permission to submit the Maryland State Arts Council Application to place a Blue Crab sculpture on the west side of the Convention Center. **Council Member Brent Ashley moved to approve; seconded by Council Member Pillas. The vote was unanimous.**
- C. Discussion of Beach Regulations Regarding Boogie Boards
City Manager David Recor advised that he met with Parks and Recreation Director Tom Shuster and Beach Patrol to address the public's reaction to prohibiting beater boards. Captain Butch Arbin advised that the Town Code prohibits surf boards greater than forty two inches long. City Solicitor Guy Ayres presented Ordinance 2012 –23 to amend Chapter 106, entitled *Waterways* to repeal and redefine beach and surf accessories. **Council Member Knight moved to proceed with the First Reading of Ordinance 2012 –23; seconded by Council Member Cymek. The vote was unanimous.** Next, **Council Secretary Martin moved to ratify Ordinance 2012-23 as an emergency ordinance; seconded by Council Member Joe Hall. The vote was unanimous.** The Mayor concurred with vote.
- C. Update on Taser Program Presented by: Chief Bernadette DiPino
Council Member Mary Knight moved to approve the purchase of, and training for, ten (10) taser weapons (with asset forfeiture funds); seconded by Council Member Ashley. The vote was unanimous.
- D. Petition Validation Regarding Unionization of General Employees (see Attachment B)
Board of Election Supervisor Vicky Barrett presented the Board's findings. **Council Member Margaret Pillas moved to accept the Board of Elections Supervisor's findings; seconded by Council Member Knight. The vote was unanimous.**
Council Member Ashley moved to submit this question for referenda on the 2012 Municipal Election Ballot ; seconded by Council Member Knight. The vote was unanimous.
- E. Request to Purchase Ammunition Presented by: Lieutenant Scott Harner
Council Secretary Martin moved to approve the purchase; seconded by Council Member Joe Hall. The vote was unanimous.
- F. **Report on Worcester County Voter Registration Process** (see Attachment C) Presented by: Kelly Allmond, City Clerk
- G. Modifications to Seabay Drive Between 86th and Bering Road - **presented by: Terence McGean, City Engineer. In his July 5, 2012 Memorandum to City Manager Recor, City Engineer McGean wrote:**

"I have asked to be placed on the July 16 Council agenda to discuss modifications to Seabay Drive between 86th and Bering Road (most likely Northbound). This is the result of two separate

complaints from residents relating to excess traffic cutting through the Seabay and the Exxon parking lot to get to the light at 85th Street. I have identified two possible solutions.

First, given that this is a narrow alley that does NOT directly connect to a light to the South, making the alley one-way northbound would seem to be a reasonable approach.

The primary impact of this change will be on the residents of the alley itself. Since they will be unable to enter the alley from Little Salisbury they have to u-turn on Coastal Highway when approaching from the South.

A second alternative that would be less disruptive for the residents would be to close off the south entrance to the alley using flex posts. This would allow the residents to enter and exit from the light at Pacific and allow emergency vehicles and trash trucks to travel through the alley while still preventing the cut through traffic of non-residents.

I will be observing the alley over the weekend and will present my final opinions regarding the two alternatives to the Council.

I have requested feed-back from the Police, Fire and Public Works Departments and will relay their response to the Council as well."

Council Member Brent Ashley moved to reject the request to make Seabay Drive a one-way street; seconded by Council Member Joe Hall. No vote taken. Mr. and Mrs. Tim Covell said they initiated this request because the current traffic pattern endangers children playing in or around the street. Several residents in the surrounding neighborhood spoke in opposition to making Seabay Drive a one-way Street. **Council Member Knight moved to refer this matter to City Engineer McGean for further study; seconded by Council Member Pillas. The vote was unanimous.**

ITEMS REFERRED TO AND PRESENTATIONS FROM THE CITY SOLICITOR

City Solicitor Guy Ayres presented **Resolution 2012-9** approving the Application and Receipt of Financing for Community Legacy Projects (OCDC Community Legacy Projects) **Council Member Margaret Pillas moved to ratify Resolution 2012-9; seconded by Council Member Joe Hall and the vote was unanimous**

ITEMS REFERRED TO AND PRESENTATIONS FROM THE CITY MANAGER

- A. Request to Approve Memorandum of Understanding with Maryland Stadium Authority for the Design and Construction of Phase II of the Convention Center Expansion (Auditorium) and Request to Approve 20-Year Lease Extension with Maryland Stadium Authority for Operation of the Convention Center (see Attachment D).

Council Member Knight moved to the MOU and Lease with the Maryland Stadium Authority; seconded by Council Secretary Martin. The vote was unanimous.

- B. Bid Award Recommendation for the Maintenance of Water Based Fire Protection Systems **Council Secretary Lloyd Martin moved to contract with Surefire Protection in the amount of \$25,100.00 for the maintenance of water-based fire protection; seconded by Council Member Pillas. The vote was unanimous.**

COMMENTS FROM CITIZENS – 5 MINUTE TIME LIMIT

Kay Merit asked the Council to have the 8th Street bike shop remove their bikes from the boardwalk. City Manager Recor advised that he will look into the matter. She also asked for a review of the traffic pattern, which she finds dangerous for pedestrians, at the intersection in front of Seacrets. City Engineer McGean advised he will look into this issue.

Herb Pawlukewicz spoke about the alleged “conspiracy” for moving the election date.

Jennie Garvin requested that the Council bring the Code current with regard to surfing and skateboarding. Mayor Meehan agreed that some of the ordinances are outdated.

Frank Adkins recommended installing underground conduit when that when renovations are made to Downtown streets and sidewalks. Also he encouraged everyone to vote.

Tony Christ applauded the council for changing the election date. He shared his concern about the federal and state government budgets, spending, pensions and unemployment.

COMMENTS FROM THE MAYOR AND CITY COUNCIL

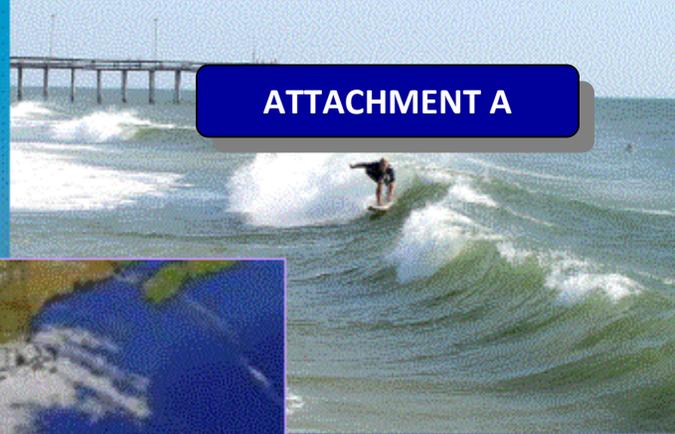
Council Member Joe Hall encouraged the forum to go to ococean.com and vote for your favorite song.

Council Secretary Martin moved to adjourn; seconded by Council Member Joe Hall. The vote was unanimous.

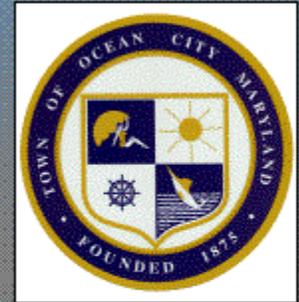
Formal Approval and Adoption of the revised 2011 All Hazards Mitigation Plan

The Mayor and City Council of the Town of Ocean City, Maryland

July 16, 2012



ATTACHMENT A



2011 Ocean City, Maryland

All-Hazard
Mitigation Plan



2011 All Hazard Mitigation Plan

Completed by Planning and Emergency Services
staff

Approved By:

Maryland Emergency Management Agency (02/02/12)

Federal Emergency Management Agency (04/03/12)

Mayor and City Council of Ocean City (07/16/12)

Insurance Services Office (under F.E.M.A.)

2011 All Hazards Mitigation Plan

a.k.a. Floodplain Management Plan

Part of F.E.M.A.'s Community Rating System Program –
Activities earn us a 15% flood insurance discount on all
OC policies (class 7)

Required as part of Insurance Services Office 2010
audit (final step)

Consistent with 2006 Comprehensive Plan

Supplement to the new Emergency Operations Plan

The Hazard Mitigation Plan's purposes:

Identify and assess hazards

Reduce or eliminate the human/economic losses

Promote long-term solutions to repetitive loss problems.

Meet the mitigation planning requirements that are prerequisite for financial assistance

The Plan's components are:

Detailed description of Ocean City

-history, population, demoflush estimates, industry, trends

Hazards are identified – natural; manmade, human-induced (terrorism, nuclear) added to this plan

Flood Insurance – NFIP, repetitive losses, flood zones, critical facilities

Beneficial functions of natural areas

Mitigation Tools – codes, preservation, restrictions

Action plan – Addressing repetitive losses, beaches, dunes, stormwater management, Maryland Coastal Bays Program, Emergency Operations Plan

Approval & Adoption of the 2011 updated plan:

- > Signed resolution goes to M.E.M.A., I.S.O., F.E.M.A.

- > F.E.M.A. accepts the resolution

- > I.S.O. officially issues a passing grade on our 5-year audit
 - Ocean City's ranking by points is established
 - Point total might change from previous audit

- > Ocean City flood insurance policy holders keep their 15% discount

- > Allows future requests for policy discount increases (20%)
 - new CRS manual
 - restructured points system

Gregory M. DeMarco
14300 Jarvis Ave #202B
Ocean City, MD 21842

June 28, 2012

VIA Hand Delivery

Kelly Allmond, City Clerk
Town of Ocean City
301 Baltimore Ave.
P O Box 158
Ocean City, MD 21843

RE: Petition for Town of Ocean City Charter Amendment for "Fair and Equal Representation Rights for the General Employees of the Town of Ocean City"

Dear Ms. Allmond:

Pursuant to Article 23A, Section 14 of the Annotated Code of Maryland, the qualified voters whose names and signatures appear on the enclosed petition hereby initiate a proposed Amendment to the Ocean City charter, the complete and exact wording of which amendment is set forth in the petition. The petition is being presented to you as agent for the City Council of Ocean City.

The proposed charter amendment is to amend Article X, Section C-1003 of the Town Charter-Merit system, in order to provide for the right of certain employees to organize and bargain collectively.

694 (K) Ad, cc

Enclosed you will find ~~695~~ petition pages containing 2356 signatures.

Please feel free to contact Hillary Galloway Davis, Esquire with any further questions about the petition.

Sincerely,



Gregory M. DeMarco

cc: Guy Ayres, City Solicitor

*On June 28, 2012 at 2:35 p.m.
I received this letter, and
a black box of with 26 packs
of 25 petitions, 1 pack of 20 petitio
and 1 pack of 24 petitions*

*Kelly Allmond
Page 1 of 1
City Clerk, Ocean City*



TOWN OF
OCEAN CITY
The White Marlin Capital of the World

July 13, 2012

Mayor & City Council
Town of Ocean City
P.O. Box 158
Ocean City, Maryland 21843

Re: Petition for Charter Amendment Referendum – Article X, Section C-1003 for
“Fair and Equal Representation Rights for the General Employees of the Town of
Ocean City”

Dear Mayor and Council Members:

The Board of Elections met on July 9, 2012 to verify the above referenced petition
and found the following:

2,362	petitioners
<u>783</u>	invalid petitioners
1,579	valid petitioners

The Annotated Code of Maryland stipulates that the number of signatures needed
for a charter amendment shall be based on twenty (20%) percent of the number of
registered voters on the rolls at the time the petition was submitted. There were
6,039 registered voters on the rolls at the time the petition was submitted. Twenty
percent (20%) of this total is 1,208. Therefore, the petition has met the required
number.

Sincerely

Mary Adeline Bradford, Chairperson
Board of Elections

MAYOR & CITY COUNCIL
P.O. BOX 158
Ocean City, Maryland 21843-0158
www.oceancitymd.gov

MAYOR
RICHARD W. MEEHAN

CITY COUNCIL MEMBERS
JAMES S. HALL, President

LLOYD MARTIN, *Secretary*

BRENT ASHLEY
DOUGLAS S. CYMEK
JOSEPH T. HALL, II
MARY P. KNIGHT
MARGARET PILLAS

DAVID L. RECOR, ICMA-CM
City Manager

KELLY L. ALLMOND
City Clerk

Kelly Allmond

From: Patricia Jackson [patricia.jackson@maryland.gov]
Sent: Thursday, July 12, 2012 11:05 AM
To: Kelly Allmond
Subject: Voter Registration Questions
Attachments: ~\$ Election Law Code Ann. 3-503, Inactive List.docx; ~\$ Election Law Code Ann. 3-304, change of name or address.docx; ~\$ Election Law Code Ann. 3-501, removal of voters from registry.docx; MD Election Law Code Ann. 3-502, change of address info & procedures.docx

Kelly, here are my responses to your inquiry. I am also attaching copies of the law referenced in my responses.

(1) Why does the number of registered voters fluctuate (especially in off-election years)?

There could be many different reasons for this: voters move to another part of Worcester County, or Maryland or a different State; deceased voters, some voters request to be removed from registry.

Another reason could be a voter registry report showing stats for both inactive and active voters and a registry containing only active voters. Another reason could be that after each General Election we take the returned mail (from specimen ballots) and put those voters in inactive status, giving them a chance to either respond with a correct address or notifying them that after 2 general elections, if no response received, the voter will be removed from our registry.

You may want to print registration reports showing the fluctuation in voter registration statewide, listed by county, by visiting the State Board of Elections website:

http://www.elections.state.md.us/voter_registration/monthly.html. You will also see that other counties experience this drop in registration numbers, it is not just Worcester County.

(2) How does the County determine whether a voter is "active" or "inactive".

We send a confirmation mailing to any voter that we have received return mail as undeliverable. (Specimen Ballots, Voter Notification Cards, etc.)

See also Md. Election Law Code Ann. § 3-503 (2012) attached hereto.

(3) How long do "inactive" voters remain on the voter rolls

Through 2 General Elections.

Regular Meeting of July 16, 2012

(4) What is your procedure for purging inactive voters?

After each General Election, we purge the inactive voters that have been in an inactive state for 4 years (2 General Elections).

This "list maintenance" is required by Federal law and written into State law and COMAR.

See also Md. Election Law Code Ann. § 3-503 (2012) attached hereto.

(5) Does the County routinely, or at any time, audit/verify the voter data?

Yes, the local boards of election conduct monthly audits which are sent to and reviewed by the State Board of Elections. The State Board of Elections also conducts random audits throughout the year. This audit is performed in order to meet legislative recommendations.

I'm attaching other election laws regarding list maintenance FYI. Let me know if you need further information.

--

Patricia Jackson, Election Director
Worcester County Election Office
100 Belt Street
Snow Hill, Maryland 21863
410.632.1320, ext. 102
Patricia.Jackson@maryland.gov

Regular Meeting of July 16, 2012

Md. Election Law Code Ann. § 3-502

Annotated Code of Maryland
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*** Current through JR 2 and Chs. 2, 6 through 9, 13, 18, 58, 66, 67, 130 and 145 of the 2012 General Assembly

ELECTION LAW
TITLE 3. VOTER REGISTRATION
SUBTITLE 5. STATEWIDE VOTER REGISTRATION LIST

Md. Election Law Code Ann. § 3-502 (2012)

§ 3-502. Change of address information; procedures

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "Confirmation notice" means a notice, approved by the State Board, that is sent by forwardable mail with a return card.

(3) "Return card" means a postage prepaid and preaddressed card on which the voter may report the voter's current address.

(b) Change of address; same jurisdiction. -- Upon receiving any information that a voter currently registered in the State has moved to a different address within the State, the appropriate election official shall change the voter's record and send the voter a confirmation notice.

(c) Change of residence outside State. -- If it appears from information provided by the postal service or an agency specified in § 3-504(b) of this subtitle that a voter has moved to a different address outside the State, the election official in the county where the voter most recently resided in the State shall send the voter a confirmation notice informing the voter of his or her potential inactive status as described in § 3-503 of this subtitle.

(d) Duty to correct. -- Upon receipt of a return card, the election director shall:

(1) make any needed corrections in the statewide voter registration list; and

(2) in accordance with State Board guidelines, retain original voter registration documents.

(e) Removal from statewide voter registration list; grounds. -- The election director may not remove a voter from the statewide voter registration list on the grounds of a change of address unless:

(1) the voter confirms in writing that the voter has changed residence to a location outside the State; or

(2) (i) the voter has failed to respond to a confirmation notice under subsection (c) of this section; and

(ii) the voter has not voted or appeared to vote (and, if necessary, corrected the record of the voter's address) in an election during the period beginning with the date of the notice through the next two general elections.

HISTORY: An. Code 1957, art. 33, § 3-504; 2002, ch. 291, §§ 2, 4; ch. 404, § 2; ch. 19, § 10; 2003, ch. 21, § 1; ch. 380; 2005, ch. 572, § 1.

ELECTION LAW

EL, § 3-303

registration record if the voter continues to reside in the county. (An. Code 1957, art. 33, § 3-301; 2002, ch. 291, §§ 2, 4; 2005, ch. 572, § 1; 2011, ch. 65.)

Effect of amendments. — Chapter 65, Acts 2011, enacted April 12, 2011, and effective from date of enactment, added “The information contained in the voter registration application for” in (b) and made related changes.

§ 3-302. Registration closing.

(a) *When registration is closed.* — Registration is closed beginning at 9 p.m. on the 21st day preceding an election until the 11th day after that election.

(b) *Receipt of applications after registration is closed — Generally.* — A voter registration application received when registration is closed shall be accepted and retained by a local board, but the registration of the applicant does not become effective until registration reopens.

(c) *Receipt of applications after registration is closed — Exceptions.* — A voter registration application that is received by the local board after the close of registration shall be considered timely received for the next election provided:

(1) there is sufficient evidence, as determined by the local board pursuant to regulations adopted by the State Board, that the application was mailed on or before registration was closed for that election; or

(2) the application was submitted by the voter to the Motor Vehicle Administration, a voter registration agency, another local board, or the State Board prior to the close of registration. (An. Code 1957, art. 33, § 3-302; 2002, ch. 291, §§ 2, 4; ch. 303, § 2; 2010, chs. 270, 271.)

Effect of amendments. — Chapters 270 and 271, Acts 2010, effective June 1, 2010, made identical changes. Each reenacted the section without change.

§ 3-303. Change of party affiliation or to or from a decline.

(a) *In general.* — Notification of a change of party affiliation or a change to or from a decline may be made:

(1) by information provided on a voter registration application by the same methods provided for registration under Subtitle 2 of this title;

(2) by written notice, signed by the voter and sent by mail or otherwise delivered to the local board in the county where the voter’s current voter registration address is located or to which the voter has moved;

(3) by making application in person at the office of the local board in the county where the voter’s current voter registration address is located or to which the voter has moved;

(4) by information on a voter authority card or other appropriate form filled out in a polling place; or

(5) by changing a name or address with the Motor Vehicle Administration.

(b) *Processing changes.* — Party affiliation changes or changes to or from a decline:

(1) shall be processed at any time that registration is open; and

EL, § 3-304

REGISTRATION AND ELECTION LAWS

(2) except as provided in subsection (c) of this section, may not be processed when registration is closed.

(c) *Time of request.* — If a local board receives a request for a party affiliation change after the close of registration, the local board shall make the change and it shall become effective for the next election provided:

(1) there is sufficient evidence, as determined by the local boards pursuant to regulations adopted by the State Board, that the request was mailed on or before the close of registration for that election; or

(2) the request was submitted by the voter to the Motor Vehicle Administration, a voter registration agency, another local board, or the State Board on or before the close of registration for that election. (An. Code 1957, art. 33, § 3-303; 2002, ch. 291, §§ 2, 4, 11; 2003, ch. 380; 2010, chs. 270, 271; 2011, chs. 292, 293.)

Effect of amendments. — Chapters 270 and 271, Acts 2010, effective June 1, 2010, made identical changes. Each rewrote the section.

Chapters 292 and 293, Acts 2011, effective June 1, 2011, made identical changes. Each rewrote (a); added (b); and redesignated accordingly.

Constitutionality. — A provision in the election laws that a person may not change his party affiliation within a certain number of

months preceding a primary election does not violate Article 7 of the Declaration of Rights, which provides that every citizen shall have the right of suffrage, if he has the constitutional qualifications of Article I, § 1 of the Constitution, which provides that any citizen having such qualifications shall be entitled to vote “at all elections hereafter to be held in this State.” *Hennegan v. Geartner*, 186 Md. 551, 47 A.2d 393 (1946).

§ 3-304. Change of name or address.

(a) *Notification of change of name or address.* — (1) Notification of a change of address or of a change of name may be made:

(i) by information provided on a voter registration application by the same methods provided for registration pursuant to Subtitle 2 of this title;

(ii) by written notice, signed by the voter and sent by mail or otherwise delivered to the local board in the county where the voter’s current voter registration address is located or to which the voter has moved;

(iii) by making application in person at the office of the local board in the county where the voter’s current voter registration address is located or to which the voter has moved;

(iv) by information on a voter authority card or other appropriate form filled out in a polling place; or

(v) by changing a name or address with the Motor Vehicle Administration.

(2) Except as provided by regulations adopted by the State Board, name and address changes may not be processed when registration is closed.

(b) *Entering electronically name and address change.* — The local board in the county in which the voter resides shall electronically enter the change of name or address into the statewide voter registration list on an expedited basis at the time the information is provided to the local board. (An. Code 1957, art. 33, § 3-304; 2002, ch. 291, §§ 2, 4; 2005, ch. 572, § 1.)

EL, § 3-501

REGISTRATION AND ELECTION LAWS

§ 3-501. Removal of voters from registry.

An election director may remove a voter from the statewide voter registration list only:

- (1) at the request of the voter, provided the request is:
 - (i) signed by the voter;
 - (ii) authenticated by the election director; and
 - (iii) in a format acceptable to the State Board or on a cancellation notice provided by the voter on a voter registration application;
- (2) upon determining, based on information provided pursuant to § 3-504 of this subtitle, that the voter is no longer eligible because:
 - (i) the voter is not qualified to be a registered voter as provided in § 3-102(b) of this title; or
 - (ii) the voter is deceased;
- (3) if the voter has moved outside the State, as determined by conducting the procedures established in § 3-502 of this subtitle; or
- (4) if, in accordance with the administrative complaint process under § 3-602 of this title, the State Administrator or the State Administrator's designee has determined that the voter is not qualified to be registered to vote. (An. Code 1957, art. 33, § 3-502; 2002, ch. 291, §§ 2, 4; 2005, ch. 572, § 1; 2006, ch. 61, § 2; ch. 354; 2009, ch. 60, § 5; 2010, ch. 72.)

Effect of amendments. — Chapter 72, Acts 2010, enacted April 13, 2010, and effective from date of enactment, substituted “§ 3-504” for “§ 3-503” in (2) and substituted “State Administrator or the State Administrator’s designee” for “local board” in (4).

Editor’s note. — Section 1, ch. 572, Acts 2005, effective January 1, 2006, repealed for-

mer § 3-501 of this article and redesignated former § 3-502 of this article to be present § 3-501 of this article.

Pursuant to § 7, ch. 61, Acts 2006, the amendments made by this act are deemed to have abrogated on June 30, 2008.

Pursuant to § 5, ch. 60, Acts 2009, “if” was substituted for “If” in (4).

§ 3-502. Change of address information; procedures.

(a) *Definitions.* — (1) In this section the following words have the meanings indicated.

(2) “Confirmation notice” means a notice, approved by the State Board, that is sent by forwardable mail with a return card.

(3) “Return card” means a postage prepaid and preaddressed card on which the voter may report the voter’s current address.

(b) *Change of address; same jurisdiction.* — Upon receiving any information that a voter currently registered in the State has moved to a different address within the State, the appropriate election official shall change the voter’s record and send the voter a confirmation notice.

(c) *Change of residence outside State.* — If it appears from information provided by the postal service or an agency specified in § 3-504(b) of this subtitle that a voter has moved to a different address outside the State, the election official in the county where the voter most recently resided in the State shall send the voter a confirmation notice informing the voter of his or her potential inactive status as described in § 3-503 of this subtitle.

ELECTION LAW

EL, § 3-503

(d) *Duty to correct.* — Upon receipt of a return card, the election director shall:

(1) make any needed corrections in the statewide voter registration list; and

(2) in accordance with State Board guidelines, retain original voter registration documents.

(e) *Removal from statewide voter registration list; grounds.* — The election director may not remove a voter from the statewide voter registration list on the grounds of a change of address unless:

(1) the voter confirms in writing that the voter has changed residence to a location outside the State; or

(2) (i) the voter has failed to respond to a confirmation notice under subsection (c) of this section; and

(ii) the voter has not voted or appeared to vote (and, if necessary, corrected the record of the voter's address) in an election during the period beginning with the date of the notice through the next two general elections. (An. Code 1957, art. 33, § 3-504; 2002, ch. 291, §§ 2, 4; ch. 404, § 2; ch. 19, § 10; 2003, ch. 21, § 1; ch. 380; 2005, ch. 572, § 1.)

Editor's note. — Section 1, ch. 572, Acts 2005, effective January 1, 2006, redesignated former § 3-504 of this article to be present § 3-502 of this article.

University of Baltimore Law Forum. — For a note, "Recent Development: Doe v. Montgomery County Bd. of Elections: The Limitations Period for Judicial Review of Petition Certification Accrues after Aggrievement, and Mandatory Referendum Petition Signature Requirements Apply to Active and Inactive Voters," see 39 U. Balt. L. F. 231 (2009).

Constitutionality. — Subdivisions (e)(2), (f)(1), (f)(3), (f)(4), and (f)(5) of this section were held to be unconstitutional in that the statute violated the rights imposed by Article I of the Maryland Constitution and the Maryland Constitution Declaration of Rights Article 7 and 24 in that it treated inactive voters differently from active voters. Md. Green Party v. Md. Bd. of Elections, 377 Md. 127, 832 A.2d 214 (2003).

On reconsideration, the Court of Appeals

adhered to its original determination that a procedure, authorized by (f), allowing purging of voters from an active roll, even for purposes of signing candidate petitions, if they failed to confirm that they had not moved, violated Article I, § 2 of the Maryland Constitution; the court interpreted the State constitutional provision, and its own opinion, in harmony with both the National Voter Registration Act of 1993, 42 U.S.C.S. § 1973gg et seq., and the Help America Vote Act of 2002, 42 U.S.C.S. § 15301 et seq. Md. Green Party v. Md. Bd. of Elections, 377 Md. 127, 832 A.2d 214 (2003).

Registration list maintenance. — The removal procedure set forth in (e) does not violate any constitutional provisions. The State Board's directions to local boards concerning these procedures are consistent with federal and State law. 90 Op. Att'y Gen. 133 (Sept. 28, 2005).

Quoted in Doe v. Montgomery County Bd. of Elections, 406 Md. 697, 962 A.2d 342 (2008).

§ 3-503. Inactive list.

(a) *In general.* — If a voter fails to respond to a confirmation notice under § 3-502(c) of this subtitle, the voter's name shall be placed into inactive status on the statewide voter registration list.

(b) *Restoration to active status.* — A voter shall be restored to active status on the statewide voter registration list after completing and signing any of the following election documents:

- (1) a voter registration application;
- (2) a petition governed by Title 6;
- (3) a certificate of candidacy;

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(4) an absentee ballot application; or

(5) a written affirmation of residence completed on election day to entitle the voter to vote either at the election district or precinct for the voter's current residence or the voter's previous residence, as determined by the State Board.

(c) *Removal.* — An inactive voter who fails to vote in an election in the period ending with the second general election shall be removed from the statewide voter registration list.

(d) *Counting for official administrative purposes.* — Registrants placed into inactive status may not be counted for official administrative purposes including establishing precincts and reporting official statistics. (2005, ch. 572, § 1; 2006, chs. 44, 354.)

Editor's note. — Section 1, ch. 572, Acts 2005, effective January 1, 2006, repealed former § 3-503 and enacted a new section in lieu thereof.

University of Baltimore Law Forum. — For a note, "Recent Development: Doe v. Montgomery County Bd. of Elections: The Limitations Period for Judicial Review of Petition Certification Accrues after Aggrievement, and Mandatory Referendum Petition Signature Requirements Apply to Active and Inactive Voters," see 39 U. Balt. L. F. 231 (2009).

Constitutionality. — Names of inactive voters should have been included by a county board of elections in calculating what percentage of registered voters were required to sign a referendum petition because, under art. I, § 2 of the Maryland Constitution, any statutory provision or administrative regulation that treated inactive voters differently from active voters was invalid; therefore, to the extent that this section permitted the maintenance of two

lists to determine an individual's registration status in order to exclude inactive voters from the list of registered voters, it was unconstitutional. *Doe v. Montgomery County Bd. of Elections*, 406 Md. 697, 962 A.2d 342 (2008).

To the extent that this section permits the maintenance of two lists to determine an individual's registration status in order to exclude inactive voters from the list of registered voters, it is unconstitutional under art. I, § 2 of the Maryland Constitution. *Doe v. Montgomery County Bd. of Elections*, 406 Md. 697, 962 A.2d 342 (2008).

Voters in inactive status not required to be included in count of voters to establish early voting centers. — Counting registered voters for the purpose of establishing early voting centers is an "official administrative purpose" and therefore voters in inactive status are not required to be included in the count. 94 Op. Att'y Gen. 151 (Sept. 22, 2009).

§ 3-504. Information from other agencies; death verification and removal from statewide voter registration list.

(a) *Information reported to State Administrator.* — (1) (i) Information from the agencies specified in this paragraph shall be reported to the State Administrator in a format and at times prescribed by the State Board.

(ii) The Department of Health and Mental Hygiene shall report the names and residence addresses (if known) of all individuals at least 16 years of age reported deceased within the State since the date of the last report.

(iii) The clerk of the circuit court for each county and the administrative clerk for each District Court shall report the names and addresses of all individuals convicted, in the respective court, of a felony since the date of the last report.

(iv) The clerk of the circuit court for each county shall report the former and present names and residence addresses (if known) of all individuals whose names have been changed by decree or order of the court since the date of the last report.

**FIRST AMENDMENT TO
OCEAN CITY CONVENTION CENTER
CONSTRUCTION, OPERATION, AND CONTRIBUTION AGREEMENT AND LEASE**

THIS FIRST AMENDMENT TO OCEAN CITY CONVENTION CENTER CONSTRUCTION, OPERATION, AND CONTRIBUTION AGREEMENT AND LEASE (this “**Amendment**”) is executed and effective this ____ day of _____, 2012 by and between the MAYOR AND CITY COUNCIL OF OCEAN CITY, a municipal corporation of the State of Maryland (the “**City**”), and the MARYLAND STADIUM AUTHORITY, a body politic and corporate and an instrumentality of the State of Maryland (the “**Authority**”).

Explanatory Statement

A. Pursuant to former § 13-712.1 of the Financial Institutions Article of the Maryland Code Annotated (now recodified as § 10-643 of the Economic Development Article) (the “**Statute**”), the City and the Authority entered into that certain Ocean City Convention Center Construction, Operation, and Contribution Agreement and Lease, dated as of September 1, 1995 (the “**Agreement**”).

B. Chapter 630 of the Laws of Maryland of 2012 (the “**Act**”), effective as of July 1, 2012, amends, *inter alia*, § 10-643 of the Statute.

C. The City and the Authority now desire to amend the Agreement to conform with the changes to the Statute made by the Act.

Agreement

NOW, THEREFORE, for and in consideration of the Explanatory Statement which shall be deemed a substantive part hereof, the promises and the mutual obligations of the City and the Authority, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Authority, for themselves and for their respective successors and assigns, hereby covenant, agree, represent, and warrant as follows:

1. Extension of the Term.

(a) The heading of Section 2.3 of the Agreement is hereby amended by striking the text thereof in its entirety and inserting in its place the following:

2.3 Joint Leasehold Interest During Duration of Authority’s Revenue Bonds and For 20 Years Thereafter

(b) Section 2.3.1 of the Agreement is hereby amended by striking the text thereof in its entirety and inserting in its place the following:

2.3.1 Vesting of Leasehold Interest For a term commencing on October 15, 1995 and continuing for the duration of such bonds and for twenty (20) years

thereafter, which term shall expire on December 15, 2035 (the "Joint Leasehold Term"), and in consideration of this Agreement, the City does hereby lease an undivided one-half (½) interest in the improvements comprising the Facility unto the Authority, and the Authority does hereby lease from the City an undivided one-half (½) interest in the improvements comprising the Facility, for the Joint Leasehold Term. The City and the Authority shall each own an undivided one-half (½) leasehold interest, as tenants in common, in the improvements comprising the Facility. Prior to and after such Joint Leasehold Term, the City shall be vested with full and exclusive title to the Facility. The City and the Authority hereby irrevocably waive, release, and surrender any and all rights that either of them may have to bring and/or maintain any action to partition the Facility, the improvements thereon, or any portion thereof, by any means whatsoever, including by operation of law or otherwise, except that the provision shall not preclude the partition of the Facility and the parties' rights therein initiated by the trustee for the Authority Revenue Bonds upon the occurrence of a default on the Authority Revenue Bonds.

2. Extension of the Annual Contributions to the Capital Improvement Reserve Fund. Section 9.3 of the Agreement is hereby amended by striking the text thereof in its entirety and inserting in its place the following:

9.3 Capital Improvement Reserve Fund

The City and the Authority, upon the completion of the Construction of the Facility, shall establish a capital improvement reserve fund to pay the costs of Capital Improvements as provided in this Section 9.3. The City, subject to the requirements of the trustees for the City's bonds and the Authority's bonds, shall be the custodian of such fund. The City and the Authority shall each make an annual contribution of Fifty Thousand Dollars (\$50,000) to this fund, beginning with the July 1 following the completion of the Construction of the Facility, and on each July 1 thereafter during the Joint Leasehold Term; provided that the City and the Authority shall each contribute Fifty Thousand Dollars (\$50,000) notwithstanding the fact that upon completion of the Construction of the Facility the then remaining fiscal year may be less

than a full year and provided further that all interest shall accrue for the benefit and use of such fund. The City, upon prior written consent of the Authority, may at any time withdraw monies from the fund to pay for Capital Improvements; provided that the Authority's consent shall not be unreasonably withheld or delayed. The Authority shall not otherwise be responsible for any Capital Improvements. Prior to the completion of the Construction of the Facility and after the expiration of the Joint Leasehold Term, the City shall be solely responsible for any Capital Improvements required by the terms of this Agreement or otherwise. Prior to recommending a withdrawal of monies, the City shall consult with the Authority about such withdrawal and the setting of priorities. Upon and after the expiration of the Joint Leasehold Term, the capital improvement reserve fund shall continue to be available for the use of the City for the costs of Capital Improvements, subject however to the continued consent rights of the Authority with respect to monies deposited prior to the expiration of the Joint Leasehold Term.

END OF ARTICLE IX

3. Effect of Amendment. The Agreement shall be amended as set forth in Sections 1 and 2 of this Amendment, and all other terms, provisions and conditions of the Agreement shall remain as set forth therein.

4. Defined Terms; Headings. Any capitalized term not defined herein (including in the recitals hereof) shall have the meaning set forth in the Agreement. Headings in this Amendment are for convenience only and shall not be used as an interpretive aid.

5. Execution in Counterparts. This Amendment may be executed in counterparts, and all counterparts when taken together shall constitute one and the same document.

6. Entire Agreement. The Agreement, as modified by this Amendment, represents the entire agreement between the Authority and the City regarding the specific subject matter contained in the Agreement and this Amendment, but nothing herein shall be deemed to amend the terms and conditions of any existing agreement not explicitly amended hereby.

IN WITNESS WHEREOF, the Mayor, the City Council President, and the City Manager of Ocean City have caused this First Amendment to Ocean City Convention Center Construction, Operation, and Contribution Agreement and Lease to be executed in its name by Richard W. Meehan, Mayor, James S. Hall, City Council President, and Richard W. Meehan, Interim City Manager, and its Seal to be affixed and duly attested, and the Maryland Stadium Authority has caused this First Amendment to Ocean City Convention Center Construction, Operation, and Contribution Agreement and Lease to be executed by its duly authorized Chairman and its seal to

be affixed and duly attested by its Executive Director in his statutory capacity as the secretary of the Maryland Stadium Authority.

[SEAL]

ATTEST:

MAYOR AND CITY COUNCIL OF OCEAN CITY

Kelly L. Allmond, City Clerk
Custodian of the City Seal

By: _____
Richard W. Meehan
Mayor

By: _____
James S. Hall
City Council President

By: _____
Richard W. Meehan
Interim City Manager

ATTEST:

MARYLAND STADIUM AUTHORITY

Michael J. Frenz, Executive Director

By: _____ (SEAL)
John Morton, III
Chairman

Approved as to form and legal sufficiency,
this ____ day of _____, 2012

By: _____
Bruce L. Benshoof, Esq.
Assistant Attorney General

State Approval

APPROVED: BOARD OF PUBLIC WORKS OF THE STATE OF MARYLAND ON THIS
_____ DAY OF _____, 2012

By: _____
Martin O'Malley, Governor

By: _____
Peter Franchot, Comptroller

By: _____
Nancy K. Kopp, Treasurer

Attest:

THIS PAGE BEING PAGE 5 OF THAT CERTAIN 7-PAGE FIRST AMENDMENT TO
OCEAN CITY CONVENTION CENTER CONSTRUCTION, OPERATION, AND
CONTRIBUTION AGREEMENT AND LEASE

STATE OF MARYLAND, COUNTY OF WORCESTER, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2012, before the subscriber, a Notary Public of the State of Maryland, personally appeared Richard W. Meehan, Mayor, and he acknowledged the foregoing First Amendment to Ocean City Convention Center Construction, Operation, and Contribution Agreement and Lease to be the corporate act and deed of the Mayor and City Council of Ocean City.

AS WITNESS, my hand and Notarial Seal.

Notary Public

My commission expires: _____

STATE OF MARYLAND, COUNTY OF WORCESTER, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2012, before the subscriber, a Notary Public of the State of Maryland, personally appeared James S. Hall, City Council President, and he acknowledged the foregoing First Amendment to Ocean City Convention Center Construction, Operation, and Contribution Agreement and Lease to be the corporate act and deed of the Mayor and City Council of Ocean City.

AS WITNESS, my hand and Notarial Seal.

Notary Public

My commission expires: _____

STATE OF MARYLAND, COUNTY OF WORCESTER, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2012, before the subscriber, a Notary Public of the State of Maryland, personally appeared Richard W. Meehan, Interim City Manager, and he acknowledged the foregoing First Amendment to Ocean City Convention Center Construction, Operation, and Contribution Agreement and Lease to be the corporate act and deed of the Mayor and City Council of Ocean City.

AS WITNESS, my hand and Notarial Seal.

Notary Public

My commission expires: _____

STATE OF MARYLAND, CITY OF BALTIMORE, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2012, before the subscriber, a Notary Public of the State of Maryland, personally appeared John Morton, III, the Chairman of the Maryland Stadium Authority, and he acknowledged the foregoing First Amendment to Ocean City Convention Center Construction, Operation, and Contribution Agreement and Lease to be the act and deed of said body politic and corporate.

AS WITNESS, my hand and Notarial Seal.

Notary Public

My commission expires: _____