

BEFORE THE COUNTY COUNCIL
OF TALBOT COUNTY, MARYLAND

FINDINGS OF FACT CONCERNING: *

A PROPOSED TRANSFER OF *
SEGMENTS OF PINEY HILL ROAD *
TO THE TOWN OF TRAPPE *

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FINDINGS OF FACT

Background

In 2003 the Town of Trappe (the "Town") annexed roughly 800 acres of land on the east side of US Route 50, including segments of Piney Hill Road. The Town requested the County to transfer segments of Barber Road and Piney Hill Road to the Town in the spring of 2006, which request was denied after the Council adopted Findings of Fact.

The request was re-introduced in the ensuing County Council session following the November 2006 election of a new Council.

US Route 50 is the major north-south State arterial highway in the County. It bisects the Town of Trappe.

Piney Hill Road is an undivided two-lane roadway lying generally east to west, intersecting US Route 50 north of Barber Road. In combination with Barber Road it provides access to and from US Route 50 to unincorporated areas of the County east and southeast of Town. Those unincorporated areas are bounded by the Choptank River to the south and east, making access to US Route 50 the principal, if not the only, means of ready vehicular access. That portion of Piney Hill Road that the Town is requesting be transferred is shown in red on a map attached for reference and incorporated by reference herein as Exhibit "A."

In 2004, the Town annexed additional land west of US Route 50. The 2003 and 2004 annexations total approximately 1,000 acres and are the prelude to municipal development that is planned to bring a substantial number of new homes and residents to Town. That development will create substantial traffic impacts to Piney Hill Road and to its intersection with US Route 50.

Applicable Legal Standards

Article 25A, § 5 (B), Md. Ann. Code provides that the County has express power "...to dispose of any real or leasehold property belonging to the County, provided the same is no longer needed for public use....after such disposition [or] grant ...shall have been advertised once a week for three successive weeks in one or more newspapers of general circulation

published in said County, stating the terms thereof and the compensation to be received therefor, and giving opportunity for objections thereto.” Accordingly, the County advertised and held a public hearing to receive public comment on the proposed transfers, which the Council has carefully considered.

The County holds all public property in a fiduciary capacity, in trust for the benefit, use, and convenience of the general public. Whether to transfer a County road turns upon considerations of the public benefit, use, and convenience. *Inlet Associates v. Assateague House Condominium Association*, 313 Md. 413, 431; 514 A.2d 1296 (1998); *Sinclair v. Weber*, 204 Md. 324, 104 A.2d 561 (1954); *Townsend, Grace & Co. v. Epstein*, 93 Md. 537, 49 A. 629 (1901).

Findings of Fact

There is no suggestion that Piney Hill Road is no longer needed for public use. Piney Hill Road is not only needed, it is essential for the public convenience, safety, and welfare. It provides access to and from US Route 50 to existing and future residents of the Town and to a substantial number of County residents living in the County’s unincorporated areas, including access for emergency, police, fire, and medical services. Transfer of these roads should occur only if it is in the best interests of all County citizens. The County has performed a comprehensive review of the County road network. That study provides a substantial amount of data for use in making decisions about the County road system.

The existing county-wide road system includes any number of key arteries, either County roads or municipal streets, serving both County and Town residents. Repairs and maintenance of Railroad Avenue in the Town of St. Michaels, a municipal street, has been identified by a St. Michaels Town Commissioner as a fitting topic to support a request that the County appropriate funding in the County budget to improve or maintain this municipal street, because, in his view, it is used primarily by County residents, not Town residents. Dutchmans Lane, owned by the County, is frequently discussed as an example of a County road within a town which has shifted the costs of municipal development onto the County. It is utilized by both Town and County residents for access to and from the east to US Rt. 50 and the Town of Easton.

Substantial municipal development has occurred on Dutchmans Lane. The County was not included in the municipal development review process to plan or finance improvements to Dutchmans Lane to mitigate foreseeable traffic impacts from that municipal development. Issues of traffic impacts on Dutchmans Lane were not caused because the County did not transfer the Road to the Town of Easton. Instead, the problem arose due to the failure of the Town of Easton and the County working together cooperatively to require appropriate infrastructure improvements when the development began. The amount of money the developer was asked to contribute through the Town was minuscule, and was infinitesimal when compared to the amount of money that will be required to upgrade Dutchmans Lane. The County is now upgrading that road.

Piney Hill Road is a primary route for County residents, and the County Council should fulfill its responsibility to see that this Road is adequately improved and maintained for everyone in the County. It is important to bear in mind who elects the County Council—municipal voters

as well as voters in unincorporated areas elect the County Council. The County Council serves both, and in the case of roads that serve both, the County Council has an obligation to see that they are adequate to serve the Town residents as well as the County residents who live outside Town.

Working together is something that the Towns and the County should strive to achieve. It is an important goal. There are instances where that cooperation is evident and where it has worked well. Emergency medical services, which are now operated primarily by the County on a county-wide basis, is but one example. All County citizens benefit collectively from combined service and management under a single entity, and all share equally in County-wide costs.

While it is important that the County respect municipal sovereignty, it is also important for the County to fulfill its responsibilities to benefit not only County residents, but also Town residents. Retention of these roads by the County is in the best interest of all County citizens.

Last year the Maryland State Highway Administration (“SHA”) met with representatives of the Dorchester, Caroline, and Talbot County Councils and gave its perspective on development on the Eastern Shore. Neil Pedersen, SHA Administrator, indicated that the pace of development in our communities is such that the State road systems are experiencing difficulties in keeping up. He emphasized the necessity for earlier and greater coordination between SHA and local governments in planning required road and highway infrastructure improvements. Mr. Pedersen used development in the Town of Trappe as an example. Trappe and its developer platted roads and planned intersections prior to approaching SHA concerning the Barber Road/US Route 50 intersection. That intersection as it presently exists is already dangerous and difficult. The prospect of adding hundreds of additional trips through the intersection each day, as Mr. Pedersen explained, caused SHA to recommend an overpass. The developer, however, was not interested in providing an overpass at that intersection. The Town declined to accept SHA’s recommendation and consequently an overpass has not been required of the developer.

These concerns, and the concerns expressed by County citizens at the public hearing, are important considerations. Additional concerns center on the potential rerouting of Piney Hill Road. The Developer’s Rights and Responsibilities Agreement between the Town and the developer gives the developer the ability to reroute that road through a major commercial area. County farmers use Piney Hill Road to haul grain from the eastern side of the County to US Route 50. If control over decisions affecting the use of Piney Hill Road were transferred to the Town, the Town might elect to restrict or perhaps even close that route to those farmers. The County is reluctant to transfer Piney Hill Road to the Town at this point, at least until the County has a better understanding of what the traffic impact is going to be on that intersection and has recommendations from SHA for the best mitigation for those traffic impacts.

In the past, the County has successfully worked with SHA to develop solutions to these problems in other contexts. For example, improvements to the Easton Bypass and St. Michaels Road are being funded in substantial measure by the developer of the Easton Village project. The County would like to see the same thing happen at the Piney Hill/US Route 50 intersection to mitigate traffic impacts from the proposed municipal development. Until the actual development

proposals are known and the impacts to Piney Hill Road can be better determined, it is in the public interest that this Road remain within the control of the County.

Essentially, it would appear to be a good idea to turn over to a town financial burdens they are willing to accept, but the question turns out to be far more complicated. If the Town's responses to all these citizens' stated concerns were accepted at this time, then only the present concerns would be addressed. Suppose we have not anticipated everything, and are therefore not in a position to adequately address future problems? If the Road is transferred now, the transfer will be completed and conditions included in the transfer will be the only ones that apply to all future problems. If the County retains control, the County could always transfer the road at a later date, once the situation is clarified and the unknowns are resolved.

Under these circumstances, if the County is to protect the interest of all the people in the County, those in the Town and the people outside of it, the County cannot turn this road over to the Town. This decision does not mean that this issue cannot be revisited at some point in the future by an ensuing Council.

After due consideration, the County Council of Talbot County, Maryland, adopted the foregoing Findings of Fact on April 22, 2008, by the following vote.

TALBOT COUNTY COUNCIL,

Philip Carey Foster, President

Levin H. Harrison IV, Vice President

Corey W. Pack

Thomas G. Duncan

Dirck Bartlett

ATTEST:

Secretary

Date: _____