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COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND

Council Work Session
Regarding the Lakeside Project

February 7, 2022; 5:00 p.m.

Via Webex Events

COUNCIL MEMBERS:

Chuck F. Callahan

Pete Leshner

Frank Divilio

Corey W. Pack

Laura E. Price

Reported by

Diane Houlihan

<p style="text-align: right;">Page 2</p> <p>1 TRANSCRIPT OF PROCEEDINGS</p> <p>2</p> <p>3 MR. CALLAHAN: I'd like to start off</p> <p>4 welcoming everybody to the work session</p> <p>5 tonight.</p> <p>6 And I thought it was very, very crucial</p> <p>7 with some of the material that we've heard over</p> <p>8 the last several months to bring all the</p> <p>9 parties to the table. I thought it was -- for</p> <p>10 the Lakeside project.</p> <p>11 Specifically, as the project relates to</p> <p>12 308, which proposes rescinding 281 in its</p> <p>13 entirety. And the Resolution 313, which</p> <p>14 proposes to impose additional conditions on</p> <p>15 Lakeside, on phase one to existing Trappe</p> <p>16 wastewater.</p> <p>17 We've heard many concerns expressed by the</p> <p>18 public over the last past few months, and I</p> <p>19 really want to truly help everybody understand</p> <p>20 because there's a lot of people in the county</p> <p>21 that are very, very concerned. I'm concerned,</p>	<p style="text-align: right;">Page 4</p> <p>1 we've heard in the past several months. So we</p> <p>2 need to give them an opportunity to explain</p> <p>3 some of this stuff that's been said to help the</p> <p>4 public feel more comfortable, more positive of</p> <p>5 what Trappe is doing. Because at the end of</p> <p>6 the day, we want a safe environment, we want a</p> <p>7 healthy environment. And at the same time, we</p> <p>8 want to support a municipality like Trappe, we</p> <p>9 want to support them.</p> <p>10 So hopefully the information presented</p> <p>11 tonight will better inform Council, as us, to</p> <p>12 consider the pending resolutions. So the stuff</p> <p>13 that we hear tonight hopefully helps the</p> <p>14 public, the Council sort of decide on the</p> <p>15 situation, and make us feel more comfortable,</p> <p>16 makes the community more comfortable on what</p> <p>17 we're going to be listening to.</p> <p>18 So at this time, what I'd like to do, I'd</p> <p>19 like to turn it over to Patrick Thomas, which</p> <p>20 is our county attorney, to briefly summarize</p> <p>21 the water and sewer and the water, the</p>
<p style="text-align: right;">Page 3</p> <p>1 Council is concerned. And I think this will</p> <p>2 help find some of the solutions tonight in what</p> <p>3 we've heard.</p> <p>4 And this is supposed to be a very, very</p> <p>5 positive meeting to help everybody understand</p> <p>6 some of the facts, some of the stuff we're</p> <p>7 hearing, bring the public eyes into where to</p> <p>8 simplify what 308 means and 281 means. That's</p> <p>9 why I'm here tonight and Council is here</p> <p>10 tonight, to listen and help provide information</p> <p>11 to the public.</p> <p>12 This is an opportunity for staff to</p> <p>13 explain the comprehensive water and sewer plan,</p> <p>14 generally specifically for 281. So we have</p> <p>15 gotten staff here to help people understand</p> <p>16 what this means because it is complicated to</p> <p>17 somebody that is not used to hearing these</p> <p>18 terms. And we're going to try to simplify it</p> <p>19 so the public understands it.</p> <p>20 This is an opportunity to allow Trappe and</p> <p>21 the developer to address the concerns that</p>	<p style="text-align: right;">Page 5</p> <p>1 comprehensive, I'm sorry, comprehensive water</p> <p>2 and sewer plan process.</p> <p>3 So Patrick, could you help the public and</p> <p>4 help everybody understand sort of where we're</p> <p>5 at at this point. It will be very, very</p> <p>6 helpful.</p> <p>7 MR. THOMAS: Yes. Thank you, Council</p> <p>8 President.</p> <p>9 So each Maryland county and Baltimore City</p> <p>10 is required by law to adopt a comprehensive</p> <p>11 water and sewer plan. And this plan, it's a</p> <p>12 planning tool for the provision of adequate</p> <p>13 water supply systems and sewer systems</p> <p>14 throughout the county, including within its</p> <p>15 municipalities.</p> <p>16 And it doesn't just address existing</p> <p>17 systems, it also looks at planned systems and</p> <p>18 looks ahead at least ten years.</p> <p>19 And no water supply system or sewer system</p> <p>20 can be installed or extended in the county,</p> <p>21 including in any municipality, unless it</p>

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<p>1 conforms to the plan.</p> <p>2 These plans are required by Title 9,</p> <p>3 Subtitle 5 of the Environmental Article and</p> <p>4 Title 26, Subtitle 3, Chapter 1 of the Code of</p> <p>5 Maryland Regulations.</p> <p>6 They can be amended from time to time, but</p> <p>7 there are certain requirements.</p> <p>8 In Talbot County, the amendment process</p> <p>9 works like this. There's either an application</p> <p>10 from a party that seeks an amendment for a</p> <p>11 particular system. It might be a residential</p> <p>12 property owner looking to convert from a</p> <p>13 existing septic system to hook up to a sewer</p> <p>14 system. More relevant, the instant matter, a</p> <p>15 municipality may be seeking to construct a new</p> <p>16 water or sewer system or upgrade an existing</p> <p>17 one. And then the county can also initiate</p> <p>18 amendments.</p> <p>19 And when a proposed amendment to the plan</p> <p>20 comes in, whether it's initiated by application</p> <p>21 or by the county, it's first introduced by the</p>	<p>1 Public Works Advisory Board make their findings</p> <p>2 and recommendations, the amendment will come</p> <p>3 back to Council for a public hearing and vote.</p> <p>4 If the Planning Commission has certified</p> <p>5 that the proposed amendment is not consistent</p> <p>6 with the Comprehensive Plan, then the Council</p> <p>7 cannot act upon it in its current form,</p> <p>8 although it does have the option of amending it</p> <p>9 and sending it back to the Planning Commission,</p> <p>10 Public Works Advisory Board.</p> <p>11 If the Council does not amend the</p> <p>12 resolution, then typically what happens is the</p> <p>13 Council members that sponsored the resolution</p> <p>14 will withdraw it and it die for lack of a</p> <p>15 sponsor.</p> <p>16 But if the Council votes to adopt the</p> <p>17 resolution, if the Planning Commission has</p> <p>18 given its certification, then this adoption is</p> <p>19 a preliminary approval. It still has to go to</p> <p>20 the Maryland Department of Environment for</p> <p>21 review and final approval. And that's because</p>
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<p>1 Council in the form of a resolution. And then</p> <p>2 that resolution is sent to the Planning</p> <p>3 Commission and the Public Works Advisory Board</p> <p>4 for review and recommendations.</p> <p>5 And that's because under 9506A of the</p> <p>6 Environment Article, the Planning Commission</p> <p>7 must first certify that a proposed amendment is</p> <p>8 consistent with the county's Comprehensive</p> <p>9 Plan, which is a separate plan from the</p> <p>10 comprehensive water and sewer plan, before the</p> <p>11 Council can act upon it.</p> <p>12 Specifically, the Planning Commission must</p> <p>13 determine whether a proposed amendment to the</p> <p>14 plan will further, and not be contrary to,</p> <p>15 certain items in the Comprehensive Plan, as set</p> <p>16 forth in 1-303 of the Land Use Article.</p> <p>17 And these are policies, timing of the</p> <p>18 implementation, timing of development, timing</p> <p>19 of rezoning, development patterns, land uses,</p> <p>20 and densities or intensities.</p> <p>21 So once the Planning Commission and the</p>	<p>1 pursuant to 9507A of the Environment Article,</p> <p>2 MDE has final authority over amendments to a</p> <p>3 county comprehensive water and sewer plan.</p> <p>4 It can approve that amendment, disapprove</p> <p>5 it, whether in whole or in part, it can modify</p> <p>6 it, or it can take any other action that it</p> <p>7 deems appropriate. Thus, until finally</p> <p>8 approved by MDE, all amendments to the plan are</p> <p>9 really preliminary or proposed amendments. MDE</p> <p>10 has the final authority to review and approve</p> <p>11 these plans.</p> <p>12 So this was where the problem lies with a</p> <p>13 county governing body rescinding approval of</p> <p>14 amendment. Because it's approved by MDE, the</p> <p>15 amendment becomes part of the county's plan.</p> <p>16 The county can't, in my opinion, cannot simply</p> <p>17 undo or rescind its approval at that point</p> <p>18 because that would essentially take, usurp</p> <p>19 MDE's ultimate authority over the plan, which</p> <p>20 is in clear violation of the statutory and</p> <p>21 regulatory schemes.</p>

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<p>1 And I think that same issue applies when 2 a Planning Commission attempts to rescind a 3 previous finding that a proposed amendment is 4 consistent with the Comprehensive Plan, again, 5 once it's been approved by MDE, because, again, 6 that would usurp MDE's ultimate authority over 7 the comprehensive water and sewer plan. 8 And I know rescission has gotten talked 9 about a lot here and I know the Waterman case 10 has been cited as authority to rescind. That's 11 really a different situation than what we're 12 talking about here. I mean in Waterman, that 13 involved a county's discretionary waiver of a 14 five-year zoning hold for municipal 15 annexations. And that's controlled under Local 16 Government Section 4416, where in that 17 situation, the county has the ultimate 18 authority, as opposed to this situation where 19 it's a separate statute and MDE has the final 20 authority. 21 But that doesn't mean that the plan, once</p>	<p>1 taking this back, in reconsidering what was 2 done in 281? 3 MR. THOMAS: I think the way to do that 4 would be to amend the plan. And it wouldn't 5 necessarily be to amend the plan to revert it 6 back to whatever it was prior to 281. 7 I think you would look at what 8 specifically needs to be addressed as a result 9 of 281, and then take it through the amendment 10 process. And ultimately MDE would have the 11 final say over that. 12 MR. CALLAHAN: Okay, Mr. Lesher? 13 MR. LESHER: Thank you. 14 MR. CALLAHAN: Okay. If there's no other 15 questions with Council, let's -- Mr. Clarke, 16 are you with us? 17 MR. CLARKE: Yes, sir. 18 MR. CALLAHAN: Sir, can you put some light 19 on 281 for us? 20 MR. CLARKE: Sure thing. Again, I think 21 as we have here on the talking points, just</p>
<p>1 amended, can never be undone. It just means 2 that it has to be undone or amended through the 3 plan amendment process, as I've outlined here 4 with MDE having the final authority. 5 So with that sort of overview of the 6 process, unless there are any questions from 7 Council, I'll turn it over to the county 8 engineer to talk more about Resolution 281 9 specifically. 10 MR. CALLAHAN: Council, we're going to 11 hand it off to Ray. 12 Would Council like to address anything 13 that Patrick said at this time? Okay. All 14 right. 15 MR. LESHER: Could we talk further about 16 that, though? That if 281 were to be undone, 17 that your advice, your opinion on this is that 18 rescission alone or rescission is not the route 19 to do that. 20 But could rescission be a necessary part 21 of a package with perhaps something else in</p>	<p>1 kind of let you know how the process was 2 initiated and what happened. 3 Real quick. I mean one of the things, I 4 guess back on April 23rd, I did send an e-mail 5 out to the town and the developer basically 6 advising them that per my conversations with 7 the county attorney at that time, this is April 8 of 2019, we were looking at trying to do I 9 guess an update to the comprehensive water and 10 sewer plan by doing like a new report of the 11 review. And my e-mail basically was asking the 12 town to start bringing together the 13 information, the maps and whatnot, for their 14 sewer service areas as well as whatever they 15 had as far capital improvement projects. 16 Basically, that kind of was moving a 17 little slow. 18 Then I think it was on actually on 19 June 27th, I had a meeting with Delmarva Power, 20 which basically they had a map, a phasing plan, 21 for the Trappe East development, or Lakeside</p>

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<p>1 development. And during that, I sent -- and I 2 was also learning that they were looking at 3 trying to I guess move forward with the 4 development in February of 2020.</p> <p>5 So ultimately, I sent an e-mail to 6 (inaudible) Broadband, Lyndsey Ryan letting 7 them know that if this is the intent, the 8 county, we have to -- you need to plan out the 9 sewer services and S-1 and S-2 areas.</p> <p>10 S-1 basically by our definition, I was 11 explaining that in my e-mail, would be building 12 something within the one to three-year period. 13 Anything after the three, let's say three to 14 five year, would be S-2 based upon our 15 definitions.</p> <p>16 At the same time, I was also alerting them 17 to the fact that right now, this was June, and 18 we receive our applications for amending the 19 comp water and sewer plan four times a year, 20 which was, at that time, the last legislative 21 day of June and then September, December, and</p>	<p>1 would you go a little bit slower, if you would, 2 please.</p> <p>3 MR. CLARKE: On July 8th, the County 4 Council actually had a town meeting. And 5 during that meeting, one of the commissioners 6 for the town was explaining that they were 7 moving forward working with the developer on 8 the Lakeside development to start in 9 January 2020.</p> <p>10 So I sent an e-mail to Janice Oden 11 explaining to her that we need to have the comp 12 water and sewer plan amended. At the same 13 time, also highlighted during my e-mail to 14 Janice that what we were working off of and 15 what MDE had been working off is that the plan, 16 within the comp water and sewer plan, 2002 17 report of the review, working off of the S-2, 18 W-2, the future planning map. So that was in 19 my e-mail to Janice Oden.</p> <p>20 It was on actually September 5th, I 21 basically sent an e-mail to Steve Alfaro and</p>
<p>1 March.</p> <p>2 So I was trying to explain to them we only 3 have two more introduction periods if you're 4 trying to move this thing forward for February.</p> <p>5 During that, basically sent that off to 6 them, I also was in communication with MDE. So 7 I sent an e-mail to MDE I believe it was on 8 July, July 9th. And at the time, I'm sending 9 it to Janice Oden explaining to her that we 10 heard from I guess the County Council had a 11 meeting with the towns the night before. And 12 ultimately --</p> <p>13 MR. CALLAHAN: Ray, can I -- I want to 14 make sure you're talking in 2019.</p> <p>15 MR. CLARKE: This is, correct. I 16 apologize. This is all 2019. It is July 9th 17 of 2019.</p> <p>18 MR. CALLAHAN: Okay --</p> <p>19 MR. CLARKE: The County Council actually 20 had a --</p> <p>21 MR. CALLAHAN: -- a little bit. Ray,</p>	<p>1 ultimately asking Steve I have not heard back 2 from Janice on my e-mail. Found out she had 3 been moved to another program.</p> <p>4 So ultimately Steve sent my e-mail on to I 5 guess Dinorah Dalmasy and Nicolai Francis, as 6 well as Robin Pellicano, who is the chief for 7 the water and sewer planning. So that went 8 over.</p> <p>9 And then Dinorah e-mailed me back. We had 10 a conference call. Ultimately, during that 11 conference call, the position of MDE was 12 everything within the town they considered as 13 immediate priority status for water and sewer 14 service. And by our definitions, that's S-1. 15 So that's S-1 or W-1, which would be immediate 16 priority status.</p> <p>17 So ultimately we talked, we had a 18 conversation. I took exception to MDE's 19 position of basically saying everything in the 20 town was S-1, W-1. I said you know, based upon 21 our plan, it has to be amended. And ultimately</p>

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1 that's identified within the section for future
 2 planning, that ultimately it notes that this,
 3 in the future planning, as the land is annexed
 4 into the town, that ultimately they have to --
 5 it will be designated S-1 after the
 6 comprehensive water and sewer plan was amended.
 7 So that's in the plan.
 8 So ultimately, through that, Robin kind of
 9 summarizes her e-mail back to me and ultimately
 10 says that whatever designation you want to use
 11 is fine with them but you have to work with the
 12 town and the developer on the process.
 13 So then communicated that back to the town
 14 and said look, we need to start the process of
 15 amending the comp water and sewer plan.
 16 We then had a couple of meetings with the
 17 town as well as the developer. And we began
 18 the process.
 19 My office began the development of the
 20 maps. We forwarded those maps over to the town
 21 for the town as well as the developer for their

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1 review.
 2 We ended up having I believe it was a
 3 meeting on, what was it, a meeting on
 4 November 30th to discuss the maps. So we did
 5 that. And then ultimately we worked with the
 6 town as well as the developer in the crafting
 7 of the resolution.
 8 Before that, one of the things I was
 9 trying to explain to the town and the
 10 developer, it would be nice if you guys had
 11 your phasing consistent with the S-1 and the
 12 W-2, S-1 and W-1, which was immediate priority
 13 status, and then have it basically the future
 14 show S-2, W-2.
 15 At that point, the town -- that was my
 16 recommendation. The town says, the town and
 17 developer are going no, we want it all S-1.
 18 And so it's, again, that's their request. So
 19 we went and moved forward with their request.
 20 So that's kind of how we initiated the
 21 process, communication back and forth.

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1 Mark Cohoon from my office developed the
 2 maps. We forwarded the maps over to them.
 3 I will say, and I highlight this I think
 4 in a text message I had back in the summer to
 5 one of the citizens, when the county prepared
 6 the 2002 report of the review, we actually used
 7 Maryland Property View, which is a product
 8 that's developed by the Maryland Department of
 9 Planning. And it was really kind of, it was
 10 let's say elementary-type GIS.
 11 It took parcel maps that were in the tax
 12 books, they were typically paper, and then
 13 ultimately they linked the SDAT data to those
 14 tax maps. So that's pretty much what Property
 15 View was.
 16 Now, what a lot of people don't realize
 17 when you get into GIS, GIS basically is trying
 18 to convert earth, which is a circular, they're
 19 flat maps. So there's a lot of what they call
 20 rubber sheeting. So as time goes on since
 21 2002, the Maryland Property View that we were

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1 using and all the rubber sheeting that's gone
 2 on, our eyes were not matching like what we had
 3 back in 2002.
 4 So we're doing our best to try to bring
 5 the maps together. And I think we
 6 inadvertently made, my office made mistakes in
 7 accidently classifying this property, that
 8 property wrong.
 9 And so one of the things that happened
 10 when we were doing the 2002 report of the
 11 review, we ended up taking Clifton and the Town
 12 of Easton and we left them out. We completely
 13 left them out. I mean this was an area that's
 14 served with water and sewer service, we left
 15 them out.
 16 And ultimately, I think Easton Utilities
 17 was looking at trying to do grant funding.
 18 They were looking at the comp water and sewer
 19 plan, they're going, Ray, we don't have this in
 20 the comp water and sewer plan.
 21 So talking with MDE, we processed

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<p>1 Resolution 229 and we identified the mistake 2 and then ultimately moved forward. Council 3 introduced that, adopted it, it went to MDE and 4 got approved.</p> <p>5 So that's what we're proposing to do with 6 the mistakes that we initiated in our office 7 with some of the parcels.</p> <p>8 But again, it's a process that we go 9 through of really going back to the comp water 10 and sewer plan, amending it through that 11 process to show, to get everything back to what 12 it was. So that's kind of the game plan.</p> <p>13 I guess, who reviews it. I mean a lot of 14 times what we're doing is as we're developing 15 things, we're working with the Town of Trappe, 16 we're working with the developer, we're working 17 with Office of Law, we're working also with MDE 18 letting them know what is happening, how this 19 is being crafted and drafted. And then 20 ultimately, once the Council has introduced 21 that, we're giving those resolutions to MDE so</p>	<p>1 ahead, Mr. Leshner.</p> <p>2 MR. LESHER: I've got two.</p> <p>3 One, the process of correcting mapping 4 errors that may have been made in 281, there 5 are I guess two categories of errors. One is 6 properties that had previously been classified 7 S-1, W-1 that were inadvertently given a lower 8 classification in the mapping. If that clearly 9 was unintentional, there's -- what you're 10 saying is there's a legislative fix for that.</p> <p>11 MR. CLARKE: That is. And again, we're --</p> <p>12 MR. LESHER: What about properties that 13 may have been not part of Lakeside but were 14 inadvertently were included along with Lakeside 15 with an upgrade without all the review 16 processes that usually go through with those? 17 We would reclassify those as well?</p> <p>18 MR. CLARKE: Correct. What we're going to 19 do is we're going to take everything back, back 20 to what it was.</p> <p>21 So it would be a very descriptive</p>
<p>Page 23</p> <p>1 they're aware of what is happening with the 2 comprehensive water and sewer plan amendments. 3 So that's basically through that process.</p> <p>4 I think at that point, as the Council 5 knows, we went through public hearing. During 6 that public hearing, I think there was a 7 question about why are we reclassifying the 8 whole area as S-1, W-1, immediate priority 9 status, when that's really not going to happen. 10 And I think at the public hearing, I believe it 11 was the developer that said look, we're willing 12 to have the lower two-fifths of the development 13 just remain as S-2.</p> <p>14 So that's where Resolution 281 was 15 amended. It was amended to show the bottom 16 two-fifths of the development as S-2 and W-2. 17 So that's basically how that set up.</p> <p>18 The other item I guess is I'll kind of 19 turn it over to, unless y'all have any 20 questions. Any questions at this point? 21 MR. CALLAHAN: That's what I was -- go</p>	<p>Page 25</p> <p>1 resolution. Those properties that were let's 2 say classified as S-1 and were let's say now 3 unprogrammed, we'll bring them back and we'll 4 very clearly identify that they were S-1 prior 5 to Resolution 281, improperly mapped. These 6 properties, the tax map and parcel number, 7 should be designated S-1, W-1, or whatever. If 8 it's a split classification, we would do that.</p> <p>9 And if we accidentally took something that 10 was let's say was unprogrammed and made it S-1, 11 we'll then take that back to basically 12 unprogrammed and we'll identify that in the new 13 resolution or amendment. And then that then 14 brings it back to what it was.</p> <p>15 I think the key is whatever was in the 16 text really should be the defining, defines 17 what was to be converted S-1 W-1 so that -- and 18 we did this, like I said.</p> <p>19 Resolution 229, we accidentally did that 20 with Clifton. It was basically S-1, W-1. And 21 we had inadvertently had it mapped as</p>

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<p>1 unprogrammed. So we worked with the State, 2 identified those parcels, and said this is -- 3 it was a minor mapping error, it was a mapping 4 error on our part. And then ultimately went 5 through the process of amending the plan. 6 MR. LESHER: Thank you. 7 Second question, which is a little bit 8 more into the weeds of the comprehensive water 9 and sewer plan of 2002. There are a couple of 10 figures in there in the Trappe area showing 11 mapping. And the figure 23 shows the, as of 12 that plan, the present map of all the sewer 13 designations, S-1, S-2, S-3, unprogrammed. And 14 figure 24 is a map showing essentially the same 15 area, but showing in that case the future. 16 And can you -- and of course, there's 17 accompanying text on that as well. But can you 18 explain a little bit more in depth about those 19 figures and their relevance to Lakeside? 20 MR. CLARKE: Basically, again, going back 21 to the report of the review, the report, the</p>	<p>1 then the future plan and then ultimately showed 2 that as S-2. 3 But again, in the text, what we do 4 identify is that as those areas are annexed 5 into the town, then they should be reclassified 6 by amending the plan to S-1 and W-1. So that 7 was identified and they should move forward 8 with that. 9 MR. LESHER: But those areas identified in 10 figure 24, they were not changed by the 11 adoption of the comprehensive water and sewer 12 plan. They would be changed by actual 13 legislation addressing those specific parcels 14 down the line? 15 MR. CLARKE: I think in talking with MDE, 16 and there were some discussions I think with 17 MDE where they actually classified those as 18 S-2, W-2 I think back in 2008, if I'm not 19 mistaken. There was discussions between the 20 county attorney at that time and MDE. And 21 ultimately MDE took the position I think that</p>
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<p>1 intent of a report of the review is basically 2 to take all the previous resolutions that were 3 adopted and show the maps accordingly. 4 So again, it would be like taking 5 everything that was adopted prior to 2002, 6 updating those in new maps, and then that's our 7 new starting point. So that was the intent of 8 the 2002 report of the review. 9 However, at that time, we had the Town of 10 Easton as well as the Town of Trappe moving 11 forward with annexations. And then our 12 discussions with the municipalities, which this 13 is something as we're updating these documents, 14 we're in communication with the towns. I mean 15 we have to work with the towns. 16 And through my discussions with MDE and 17 the Maryland Department of Planning, the intent 18 of basically adding this future planning 19 section was probably -- was a way of trying to 20 address the concerns of the towns at that time. 21 So that was why we have the existing plan and</p>	<p>1 those were S-2, W-2 areas. 2 MR. LESHER: Without the legislative 3 action of the county? 4 MR. CLARKE: Well, no. I think what they 5 looked at is they looked at the long-range 6 plan, in the plan those are now S-2, W-2. 7 My concern was -- 8 MR. LESHER: They were not in as of what 9 point? As of -- if this was intended to be a 10 ten-year look. 11 MR. CLARKE: Right. 12 MR. LESHER: The anticipation was in 2002 13 that within ten years, this development was 14 coming, that the county would need to take 15 legislative action in order to change that 16 unprogrammed area into S-2? 17 MR. CLARKE: Technically not to do that. 18 It would be to take it to S-1. As it moved 19 from being annexed into the town, we would need 20 to amend the comp water and sewer plan. So 21 that was --</p>

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<p>1 MR. LESHER: You could do it directly from 2 unprogrammed to S-1? 3 MR. CLARKE: Correct. 4 MR. LESHER: That could happen in 5 legislative action as well? 6 MR. CLARKE: Correct. But I think 7 basically we made the decision, after my 8 e-mails with MDE, to call it S-2. 9 So I think, again, apologize for the 10 confusion for everybody, but we're basically 11 either starting from unprogrammed or S-2. So 12 we're taking the plan and we want it to be S-1, 13 immediate priority status. That's what it 14 needs to be. 15 So we took the position that it was S-2, 16 W-2. We didn't just go all the way back to 17 unprogrammed because it was already represented 18 in the final long-range plan with MDE. And 19 through the consultations with MDE, it became 20 okay, really our end point is S-1. So we're 21 trying to take it back to -- get it to S-1.</p>	<p>1 priority status for water and sewer service. 2 MS. PRICE: This is Laura. Can I jump in 3 for a second? 4 You said a couple of times that MDE 5 classified it as S-2 and that they looked at 6 the long-range plan and thought it was S-2 7 because of a long-term position. 8 And then you said we, I assume you mean 9 the county, took the position that it was S-2. 10 But you can't make it S-2 unless there's a 11 resolution to legislate it as S-2. You can't 12 just assume because it's been three years, five 13 years, ten years, that it automatically 14 changes. 15 And I do understand that we can take it 16 from unprogrammed straight to S-1. We don't 17 have to go through the various steps to get 18 there. 19 But there's a lot of assumptions. And I 20 think that's where some of this angst is coming 21 from, that things -- does that makes sense?</p>
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<p>1 MR. LESHER: I understand. But did the 2 adoption of the comprehensive water and sewer 3 plan in 2002 change the status? Or would it 4 have required a separate legislative action to 5 change the status of that area from 6 unprogrammed to S-2? 7 MR. CLARKE: The way MDE looks at it, they 8 were looking at the comp water and sewer plan, 9 the long-range plan. They saw that as S-2, 10 S-2, W-2. 11 Our intent -- 12 MR. LESHER: The ten-year intention at the 13 time the plan was adopted would be that that 14 would be S-2? 15 MR. CLARKE: Correct, correct. And I 16 think the key was is that was part of that 17 future planning. 18 But we highlighted within the text that if 19 it's going to go, if it's annexed into the 20 town, that the comp water and sewer plan needs 21 to be amended to reclassify it as immediate</p>	<p>1 I mean it's like you said it twice. MDE 2 looked at our long-range plan and said it was 3 S-2 and then we took the position that it was 4 S-2. But the Council didn't. 5 MR. CLARKE: Well, again -- 6 MS. PRICE: So -- 7 MR. CLARKE: I'm consulting with MDE -- 8 MS. PRICE: -- problematic. 9 MR. CLARKE: -- they're the approving 10 authority, and that's what they're telling me 11 at that time. So that's... 12 MS. PRICE: But they don't make the 13 classification. The local government, the 14 county, classifies it in our comp water and 15 sewer plan. 16 And then -- and MDE and -- they've said 17 they don't make those classifications. They 18 might -- we send it to them. What does the 19 county want it to be. We have a resolution. 20 We want it to be S-1, we want it to be XYZ. 21 And MDE approves it.</p>

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<p>1 They don't question the county. They want 2 to reflect what the county's desires are -- 3 MR. DIVILIO: -- debating -- 4 MS. PRICE: -- decision. We need to send 5 it to them first. 6 MR. DIVILIO: Are we debating -- 7 MS. PRICE: No, no. I'm trying to clarify 8 because -- 9 MR. DIVILIO: -- the county engineer. 10 I'm completely lost here in the process. 11 Mr. Leshner had two questions and now -- 12 MS. PRICE: No. I'm -- 13 MR. DIVILIO: Did you speak with Ray 14 before the meeting? 15 MS. PRICE: No. I'm asking, I'm just 16 asking a question. I'm not debating. 17 I'm just saying that the way he -- and I'm 18 sure everything he's saying, he's been there, 19 it's true. He's probably the longest term 20 person we have. I'm not questioning what was 21 said at all.</p>	<p>1 MR. CLARKE: Well, I mean one of the 2 things, again -- 3 MS. PRICE: I'm not accusing anybody of 4 anything. 5 MR. DIVILIO: Okay. So -- 6 MS. PRICE: And I'm just trying to -- 7 MR. DIVILIO: -- did here. 8 MS. PRICE: I haven't -- I'm just trying 9 to have him reiterate what he just said because 10 that's a lot of information. 11 So I'm just trying to get my notes written 12 down properly of what his conversation was with 13 MDE. That's all I want to know. 14 I want to know who classified it. That's 15 all I want to know. 16 I'm not accusing anybody. So let's not 17 devolve into this again. This is important, 18 and I'm just trying to get clarity. 19 MR. CLARKE: And maybe I can help. 20 MS. PRICE: Thank you, Ray. 21 MR. CLARKE: Maybe I can help.</p>
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<p>1 I'm questioning that it seems a little odd 2 that MDE is classifying things, and they 3 have -- they don't the right nor the ability to 4 classify things. We classify and then they 5 approve. 6 So this is weird -- 7 MR. DIVILIO: So you're saying that MDE 8 did something wrong. 9 MS. PRICE: -- happened. 10 MR. DIVILIO: So Laura, wait. Laura, what 11 accusations -- 12 MS. PRICE: (inaudible.) 13 MR. DIVILIO: I'm trying to write this 14 down. 15 Laura, what accusation are you saying MDE 16 did? What are you accusing them of doing 17 wrong? 18 MS. PRICE: I'm not -- 19 MR. DIVILIO: I'm sorry. Because I 20 thought I had all of this prepared before the 21 meeting. I'm sorry.</p>	<p>1 On January 9th of 2019, part of my e-mail 2 to Janice Oden is I say back in 2007, 2008, MDE 3 represented that the Talbot County 4 comprehensive water and sewer plan classified 5 the proposed development as S-2, W-2, final 6 planning, which is COMAR definition, not the 7 Talbot County comp water and sewer plan 8 definition. 9 So basically COMAR is what they call final 10 planning. Ours is a future programmed 11 planning. 12 So ultimately, at that time MDE issued the 13 discharge permit, but the developer abandoned 14 the permit due to the financial crisis of 2008. 15 During this period of time, there was some 16 conflict between the two local governments. 17 So my point is MDE is telling -- they were 18 representing it was S-2, W-2. I was trying to 19 get clarification from MDE on this. And then 20 ultimately, in my e-mail that I received from 21 basically Robin Pellicano, she basically tells</p>

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<p>1 me, what was it here, if I can find the right 2 page here. She basically notes that to follow 3 up, in the past, we haven't requested phasing 4 amendments for large projects. If the county 5 is now requiring phases for any large 6 project -- now, this is October 1, 2019 -- MDE 7 will accept that the county now requires this. 8 And for any future large project in the county, 9 the amendment will now have phases. We 10 request, including policy text change 11 incorporation so any future developer 12 understands this. It is also my understanding 13 that MDE had issued permits before the S-2 14 areas and has approved a discharge permit 15 before this area -- for this area.</p> <p>16 After reading the category definition for 17 category one, the plan says it is under 18 construction. So as we understand it, the 19 category change from S-2 to S-1 can occur when 20 this area is under construction. So most, if 21 not all, permits would need to be approved</p>	<p>1 explaining that.</p> <p>2 So let's move on to, let's let Miguel say 3 a few words here.</p> <p>4 Miguel, are you with us?</p> <p>5 MR. SALINAS: I am. Thank you. Sorry 6 about that.</p> <p>7 MR. CALLAHAN: No problem.</p> <p>8 MR. SALINAS: So yeah. Actually Ray and 9 Patrick actually covered a lot of it.</p> <p>10 I just wanted to go back and remind 11 everybody that the process that went through 12 the approval of Resolution 281, the original 13 Resolution of 281 before amendment number one 14 came to the Planning Commission on 15 February 5th. And at that time, the Planning 16 Commission made a motion to -- that it wasn't 17 ready to make a finding of consistency yet with 18 the Comprehensive Plan. And they had 19 recommended that the Council consider amendment 20 that would reflect a phase approach for S-1, 21 W-1 status.</p>
<p>Page 39</p> <p>1 before construction.</p> <p>2 We look forward to the adopted amendment, 3 which is reading when the water and sewer plan 4 amendments happen, it may occur sometime later 5 in this year. Is this assumption correct?</p> <p>6 Now, again, their position is that they 7 feel that everything is S-1. And I was arguing 8 with them on that.</p> <p>9 So again, they looked at it. And again, 10 I've made the argument with them in my e-mails 11 back to say we need to reclassify the plan. We 12 need to reclassify this area to immediate 13 priority status. And that's what I was trying 14 to communicate with MDE.</p> <p>15 MR. CALLAHAN: Does that --</p> <p>16 MR. LESHER: Thank you, Mr. Clarke.</p> <p>17 MR. CALLAHAN: Thank you, Mr. Leshner. 18 Okay.</p> <p>19 So anybody have anything else for 20 Mr. Clarke? Okay.</p> <p>21 Appreciate it, Mr. Clarke. Good job</p>	<p>Page 41</p> <p>1 And of course, that's what happened.</p> <p>2 Amendment one was introduced. And it went back 3 to the Planning Commission for consistency.</p> <p>4 Just to remind everyone what consistency 5 means. For any amendment to the Comprehensive 6 Plan, according to the Environmental Article of 7 the Maryland Annotated Code as well as the Land 8 Use Article of that same code, that the 9 Council, before they adopt any proposed 10 amendment to the comprehensive water and sewer 11 plan, the Planning Commission must certify 12 consistency with the Comprehensive Plan. And 13 there are seven factors, regardless of how, 14 regardless of what the plan amendment is. The 15 determination of consistency is always those 16 seven factors.</p> <p>17 One factor is the policies of the 18 Comprehensive Plan. The other ones relate to 19 the timing of the implementation of the 20 Comprehensive Plan, the timing of the proposed 21 development, the timing of rezoning, the timing</p>

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<p>1 of development patterns in that project, and 2 then the timing of land uses. I'm sorry. The 3 land uses and the densities or intensities. 4 Those are the subfactors that are weighed 5 against the policies that relate to those seven 6 factors in the Comprehensive Plan. 7 So when that amendment came back to the 8 Planning Commission, the Planning Commission 9 scheduled it for their March 24th or 20th, 10 2020, meeting. But that was canceled due to 11 COVID. 12 So it moved on to the May 20th meeting 13 where they heard testimony, kept the record 14 open to June 2nd. 15 And then they had a June 3rd meeting. The 16 Planning Commission on June 3rd meeting 17 scheduled a -- continued the meeting to 18 June 10th I believe. And then they made their 19 motion at that time Resolution 281 with 20 amendment number one, that it was consistent 21 with the Comprehensive Plan on a vote of three</p>	<p>1 I actually missed the e-mail that I took 2 one -- this is the other e-mail that Robin sent 3 me. It says in regard to -- 4 MR. CALLAHAN: Ray, Ray, hey, Ray. 5 MR. CLARKE: Yeah. 6 MR. CALLAHAN: Just keep in mind now, you 7 gave us a lot of information. 8 MR. CLARKE: I know. 9 MR. CALLAHAN: You're trying to do the 10 best you can. So just take your time. 11 This isn't something here that it's going 12 to involve, in my opinion, you doing something 13 wrong at all. It's a matter of trying to get 14 us the information the best you can. 15 And you're reading a lot of e-mails, 16 you're going back and forth, and you're trying 17 to simplify this for us. And I appreciate 18 that. 19 MR. CLARKE: No problem. 20 Well, again, this is the e-mail that Robin 21 did send to me. And I think it helps maybe</p>
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<p>1 to two. 2 And I guess that's all I can add at this 3 point, but I just wanted to remind everyone of 4 what those seven factors are and that those 5 seven factors exist on any amendment to the 6 comprehensive water and sewer plan. 7 MR. CALLAHAN: Thanks, Miguel. 8 Mr. Leshner, you have... 9 MR. LESHER: Mr. Callahan, we were not 10 hearing you. 11 MR. CALLAHAN: Oh. I said I was asking 12 did you have any questions for Miguel? 13 MR. LESHER: I do not, at least not at 14 this time. Thank you. 15 MR. CALLAHAN: Okay. Council, Council, 16 Laura or Frank or Corey? Okay. 17 Ray, do you have any -- you're good right 18 now? Can you put your speaker on? There you 19 go. 20 MR. CLARKE: I was on mute there. Sorry 21 about that.</p>	<p>1 clarify a few things. 2 MR. CALLAHAN: That's good. 3 MR. CLARKE: In regards to the 4 development, there have been in planned service 5 since at least 2002. And if they are ready to 6 proceeding, then they are ready to proceed. 7 To us at this point, it does not matter 8 what designation they have since they are 9 planned for service. 10 So this is MDE, Robin Pellicano. If you 11 are concerned they do not have something other 12 than the water and sewer plan amendment, please 13 work with the town, developer to get what you 14 need or let them know they should have whatever 15 it is. 16 So again, MDE is not -- basically I'm 17 trying to argue one. And they're going it 18 doesn't matter what the classification is. 19 We're not worried if it's unprogrammed or if 20 it's S-2 or W-2. 21 MR. CALLAHAN: Right.</p>

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<p>1 MR. CLARKE: And I'm the one who is 2 arguing that we need to amend the comp water 3 and sewer plan to make it S-1, W-1.</p>	<p>1 design, permitting, and construction over the 2 next year.</p>
<p>4 MR. CALLAHAN: Thanks for clarifying that, 5 Ray. So I appreciate that.</p>	<p>3 And then after that year is done, we'll 4 obviously have to put it out to bid. And 5 construction and startup will take 6 approximately two years.</p>
<p>6 I guess what we'll do at this time, I 7 think, Patrick, do you have anything to add to 8 any of this?</p>	<p>7 So we're --</p>
<p>9 MR. THOMAS: No, not at this time.</p>	<p>8 MR. CALLAHAN: On the existing plant? On 9 the existing plant?</p>
<p>10 MR. CALLAHAN: Okay. All right. No 11 problem.</p>	<p>10 MS. RYAN: Yes. That is to upgrade the 11 existing plant to ENR. They are recommending a 12 wave oxidation treatment system at a capital 13 cost of \$8.8 million and an additional four and 14 a half million to take care of the sludge 15 lagoons that the Town of Trappe currently has.</p>
<p>12 So I think what we'll do now is hand it 13 over. Is Trappe available?</p>	<p>16 MR. CALLAHAN: Okay. Sounds good.</p>
<p>14 MS. MORRIS: Yes. We have Lyndsey Ryan 15 and several members of the Trappe Commission 16 with us.</p>	<p>17 MS. RYAN: So I don't know if you have any 18 questions on that or if you want to keep 19 rolling through?</p>
<p>17 MR. CALLAHAN: Sure, sure. Lyndsey, are 18 you there?</p>	<p>20 MR. CALLAHAN: Just keep rolling through. 21 If Council, if you have any questions for</p>
<p>19 MS. RYAN: Yes. Can you hear us?</p>	
<p>20 MR. CALLAHAN: Yup, we can hear you. 21 Okay. So do you want to start off with you,</p>	
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<p>1 Lyndsey?</p>	<p>1 Lyndsey, please let me know. And just one at a 2 time now.</p>
<p>2 MS. RYAN: Sure. So I don't know if you 3 would rather me kind of go through -- we 4 received a couple of questions that you wanted 5 Trappe to weigh in on.</p>	<p>3 MS. RYAN: Yup. And so getting to 4 Trappe's existing plant, I think there was a 5 question about Trappe's available capacity.</p>
<p>6 MR. CALLAHAN: Sure.</p>	<p>6 They have a 200,000-gallon per day plant. 7 Their average daily flow is 95,000 gallons per 8 day. That's a conservative number, assuming 9 250 gallons per day per EDU. They're actually 10 averaging closer to about 60,000 gallons per 11 day.</p>
<p>7 MS. RYAN: -- kind of covered the history 8 there.</p>	<p>12 With the 120 EDUs allocated to Lakeside, 13 they still have about 60,000 gallons per day 14 available. And the number is actually larger 15 based on their average daily flows.</p>
<p>9 MR. CALLAHAN: Yup, yup. You sort of 10 heard tonight how things are going and where 11 we're at on our end.</p>	<p>16 That amount includes all of their infill 17 lots and anticipated growth.</p>
<p>12 So it will be great if we sort of can 13 listen to where you're at on your end.</p>	<p>18 Are there questions there? Okay.</p>
<p>14 MS. RYAN: Yup.</p>	<p>19 MR. CALLAHAN: Yup.</p>
<p>15 MR. CALLAHAN: That would be great.</p>	<p>20 MS. RYAN: So I think the biggest issue 21 goes to Trappe's existing plant and discharge</p>
<p>16 MS. RYAN: First I think we'll start with 17 the latest development. And that is that the 18 Town of Trappe last week voted to submit the 19 preliminary engineering report for their ENR 20 upgrade to MDE. MDE is taking that under 21 review right now. We expect to be under</p>	

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<p>1 requirements and compliance. And there's been</p> <p>2 a lot of talk over the last year about Trappe's</p> <p>3 plant being outdated and I guess this term of</p> <p>4 failing.</p> <p>5 I think I've reiterated multiple times</p> <p>6 that Trappe's plant, while outdated, isn't</p> <p>7 meeting the latest technology, it's a BIOLAC</p> <p>8 plant, it's by no means failing.</p> <p>9 It does achieve ENR phosphorus of .3</p> <p>10 milligrams per liter, but it is not meeting the</p> <p>11 nitrogen levels. However, it's not required</p> <p>12 to. They have discharge permit limits for</p> <p>13 nitrogen as ammonia, phosphorus, fecal</p> <p>14 coliform, and annual max loads for phosphorus</p> <p>15 and nitrogen.</p> <p>16 Prior to February of 2021, the Town of</p> <p>17 Trappe, from January of 2016 to January of</p> <p>18 2021, only had two discharge permit violations.</p> <p>19 Both of them were related to ammonia. And mind</p> <p>20 you, that's two when they're testing every</p> <p>21 single day over that entire span.</p>	<p>1 I've provided to Ray and I think Ray can</p> <p>2 confirm, the Town of Trappe has done an amazing</p> <p>3 job operating its treatment plant.</p> <p>4 I assume there's probably questions there.</p> <p>5 I don't know if you want to speak to Ray on</p> <p>6 that.</p> <p>7 MR. CALLAHAN: Well, well, first of all, I</p> <p>8 want to commend Trappe for at this point</p> <p>9 upgrading and making the decision to upgrade</p> <p>10 their existing plants. So the citizens and</p> <p>11 everybody should be excited about that.</p> <p>12 You know, so that's going to happen,</p> <p>13 Lyndsey. So for the first year, what does that</p> <p>14 mean for the first year? Run that by me again.</p> <p>15 MS. RYAN: So we've submitted the</p> <p>16 preliminary engineering report. Once MDE</p> <p>17 determines eligibility on grant versus loan</p> <p>18 funding and how much of the project they will</p> <p>19 actually fund, the engineer will start design</p> <p>20 of that plant. So the first year will be</p> <p>21 design and bidding.</p>
<p>Page 51</p> <p>1 In February through April of 2021, the</p> <p>2 town experienced violations related to ammonia</p> <p>3 and nitrogen. And part of that was because the</p> <p>4 town was storing excess water in their lagoon.</p> <p>5 In February, they tried to run some of that</p> <p>6 excess water through their treatment plant,</p> <p>7 which resulted in some of the biomass, the</p> <p>8 healthy biomass basically dying off.</p> <p>9 They weren't aware of the February issue</p> <p>10 until the end of March when they received their</p> <p>11 lab results from their contract lab. And by</p> <p>12 the time they learned of it at the end of</p> <p>13 March, they immediately took corrective action,</p> <p>14 which was to purchase a monitoring tool that</p> <p>15 allowed them to conduct the on-site monitoring</p> <p>16 of ammonia daily. They're also in the process</p> <p>17 of getting a sludge permit.</p> <p>18 Since that time, the town immediately</p> <p>19 corrected the issues. They've had no discharge</p> <p>20 permit violations.</p> <p>21 I think looking at a history, all of which</p>	<p>Page 53</p> <p>1 After we have the contract bid, obviously</p> <p>2 construction will start. And a conservative</p> <p>3 time frame for construction and operation,</p> <p>4 having it up and running meeting ENR standards,</p> <p>5 is two years.</p> <p>6 MR. CALLAHAN: Okay. Well, that's great.</p> <p>7 I mean that's exciting. I appreciate that,</p> <p>8 Trappe, for you doing that.</p> <p>9 Ray, do you want to just add a little bit</p> <p>10 to that?</p> <p>11 Go ahead. Take yourself off mute, please.</p> <p>12 MR. CLARKE: One of these days I'll</p> <p>13 remember that.</p> <p>14 MR. CALLAHAN: There you go. No problem.</p> <p>15 MR. CLARKE: Sorry about that.</p> <p>16 Lyndsey did share all the DMRs from the</p> <p>17 Town of Trappe with me. They are doing a good</p> <p>18 job. And again, I would like to commend I</p> <p>19 think it's Steve Callahan who is their operator</p> <p>20 down there. He does -- he's constantly</p> <p>21 working. And I mean we'll do whatever we can</p>

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<p>1 to support him.</p> <p>2 I would say at this point I mean we, the</p> <p>3 county, we run into problems as well. So I</p> <p>4 mean --</p> <p>5 MR. CALLAHAN: Right, right.</p> <p>6 MR. CLARKE: -- we all have issues.</p> <p>7 MR. CALLAHAN: That's why we're all here</p> <p>8 right now to work as a team, and we're here to</p> <p>9 help Trappe. That's what we're here for. And</p> <p>10 it sounds like they're doing their part.</p> <p>11 That's for sure. And I'm proud of them.</p> <p>12 So okay. Anything else right this second,</p> <p>13 Ray?</p> <p>14 MR. CLARKE: I'm good.</p> <p>15 MR. CALLAHAN: Okay, Lyndsey.</p> <p>16 MR. LESHER: Mr. Callahan.</p> <p>17 MR. CALLAHAN: Yes, Mr. Leshner.</p> <p>18 MR. LESHER: Can I just ask a question</p> <p>19 about --</p> <p>20 MR. CALLAHAN: Yup.</p> <p>21 MR. LESHER: About any I&I challenges with</p>	<p>1 SPEAKER: Yeah. We re-sleeved most of</p> <p>2 Harrison Circle with a fiberglass lining, which</p> <p>3 is top of the line for fixing pipes around</p> <p>4 there for leaking water that's running in also</p> <p>5 there. So that's been done. We have been</p> <p>6 taking measures to take care of that.</p> <p>7 MR. CALLAHAN: That's good.</p> <p>8 Council, Mr. --</p> <p>9 MR. DIVILIO: This is Frank Divilio.</p> <p>10 Mr. Clarke, I believe you brought that,</p> <p>11 the county wide I&I program or problem, to the</p> <p>12 Council my first year on the Council.</p> <p>13 Can you remind me what the County Council</p> <p>14 has put in place to -- or I don't believe we've</p> <p>15 taken any action to reduce the I&I problem</p> <p>16 throughout the entire county; have we?</p> <p>17 MR. CLARKE: Mr. Divilio, you are correct.</p> <p>18 We have not done any I&I work on Tilghman. And</p> <p>19 we definitely need to do that. I think --</p> <p>20 MR. DIVILIO: Okay.</p> <p>21 MR. CLARKE: -- we'd like to try and do,</p>
<p>Page 55</p> <p>1 the system and how that may relate to the</p> <p>2 performance?</p> <p>3 MS. RYAN: Right. So I mean I think</p> <p>4 every, pretty much every municipality, every</p> <p>5 government really struggles with I&I issues,</p> <p>6 unfortunately.</p> <p>7 The Town of Trappe has undertaken some</p> <p>8 measures to address I&I issues. They've</p> <p>9 undertaken a pump station project where they</p> <p>10 are in the process of replacing and</p> <p>11 revitalizing some of their pump stations, which</p> <p>12 will improve some of the I&I.</p> <p>13 They also have smoke testing scheduled to</p> <p>14 come out in the spring so that they can</p> <p>15 determine better where they're having the I&I</p> <p>16 issues coming from.</p> <p>17 And there's another project, Harrison</p> <p>18 Circle. Does someone, do you want to explain</p> <p>19 that?</p> <p>20 SPEAKER: The Harrison Circle project?</p> <p>21 MS. RYAN: Yeah.</p>	<p>Page 57</p> <p>1 as Lyndsey indicated, a real quick test is a</p> <p>2 smoke test. And I think that should be done.</p> <p>3 And that's something we are looking at trying</p> <p>4 to plan this spring for Tilghman, is smoke</p> <p>5 testing because it does identify a lot of</p> <p>6 problem areas quickly.</p> <p>7 MR. DIVILIO: Thank you. So again, it has</p> <p>8 been brought to the -- one of the complaints</p> <p>9 that we hear is the I&I problem in Trappe.</p> <p>10 And Trappe is, Lyndsey, if I'm getting it</p> <p>11 right, you've already put some things in place</p> <p>12 and continue of additional testing and other</p> <p>13 things going forward, yet the County Council</p> <p>14 has done nothing throughout the rest of the</p> <p>15 county. Is that correct?</p> <p>16 MS. RYAN: It's correct on our end, yes.</p> <p>17 MR. DIVILIO: Well, thank you for being</p> <p>18 forward thinking. And I apologize for our</p> <p>19 delays.</p> <p>20 Certainty, once we can get through this,</p> <p>21 that would be the next thing that I would like</p>

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<p>1 to focus on. Thank you.</p> <p>2 MR. CALLAHAN: Thank you, Mr. Divilio, for</p> <p>3 bringing that to our attention. And seems like</p> <p>4 Trappe is on top of it. That's for sure.</p> <p>5 Mr. Leshner.</p> <p>6 MR. LESHNER: Well, not to this, but we've</p> <p>7 been dealing with this extensively in</p> <p>8 St. Michael's and have been spending</p> <p>9 considerable funds on improving I&I problems</p> <p>10 down there.</p> <p>11 But the other part of the question was the</p> <p>12 extent to which this is impacting plant</p> <p>13 performance.</p> <p>14 MR. CALLAHAN: Is that question to</p> <p>15 Lyndsey?</p> <p>16 MS. RYAN: I believe so. And so the I&I</p> <p>17 at this point is not impacting plant</p> <p>18 performance.</p> <p>19 What happened in February was we were</p> <p>20 storing rainwater from the prior months in the</p> <p>21 water storage pond. And we're trying to get</p>	<p>1 an issue, I mean Trappe was really truly moving</p> <p>2 forward with trying to make a decision. And</p> <p>3 let's face it, I mean you guys know, again,</p> <p>4 with running county wide sewer plants that</p> <p>5 there's several different options whether or</p> <p>6 not you run it here, you set up a treatment</p> <p>7 plant there, do we tie it into an existing</p> <p>8 treatment plant. I mean there's just so many</p> <p>9 options. And really trying to find out which</p> <p>10 one is the most feasible for the Town of Trappe</p> <p>11 is a process.</p> <p>12 And so you know, it's really something</p> <p>13 that's been in the works for a couple of years.</p> <p>14 And again, a lot of it has to do with</p> <p>15 feasibility and really truly what is the best</p> <p>16 option for the environment, whether or not we</p> <p>17 run it here, whether or not we upgrade our own</p> <p>18 plant, whether or not we do a couple of other</p> <p>19 options. But yeah.</p> <p>20 So again, it's -- I think, as we're</p> <p>21 hearing here, Trappe really is trying to -- is</p>
<p>Page 59</p> <p>1 rid of some of that. In addition to the</p> <p>2 extreme amount of water, it was cold. So after</p> <p>3 that time, the operator learned that it was an</p> <p>4 operational error and has not made the same</p> <p>5 error since.</p> <p>6 MR. LESHNER: Thank you.</p> <p>7 MR. CALLAHAN: Lyndsey, does any of the</p> <p>8 Council want to say a few words? Or we move on</p> <p>9 to Showalter?</p> <p>10 SPEAKER: (Inaudible.)</p> <p>11 SPEAKER: So anyway, I think as far as our</p> <p>12 ENR plant, I believe it's been fairly well</p> <p>13 documented with our open meetings and so on and</p> <p>14 so forth that actually the Town of Trappe has</p> <p>15 been researching several options for an ENR</p> <p>16 plant for the last two years.</p> <p>17 So the decision that we made the other</p> <p>18 night really wasn't a new decision. It wasn't</p> <p>19 like something we talked about the day before</p> <p>20 and were like oh, yeah, great.</p> <p>21 Long before, you know, some of this became</p>	<p>Page 61</p> <p>1 taking care of what we need to take care of and</p> <p>2 we're moving forward.</p> <p>3 MR. CALLAHAN: That sounds great. And I'm</p> <p>4 happy for you guys. And we're here to support</p> <p>5 you guys on that, too. So that's great to</p> <p>6 hear. I'm glad you're making decisions.</p> <p>7 And it's all about communication. So I'm</p> <p>8 proud of you.</p> <p>9 I see Mr. Chase back there. You know what</p> <p>10 I mean? He's probably dying to say something.</p> <p>11 MR. CHASE: I might say too much.</p> <p>12 MR. CALLAHAN: I know it. I hear you, I</p> <p>13 hear you.</p> <p>14 Well, this Council wants to be able to</p> <p>15 communicate with you guys and be able to</p> <p>16 support you. And I think it's long overdue</p> <p>17 that we're here talking to each other. That's</p> <p>18 for sure.</p> <p>19 And that's my apologies. We should have</p> <p>20 done this way before this. And all we can do</p> <p>21 now it move forward and communicate together</p>

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<p>1 the best we can because you do have a big 2 project on your hands and you got two projects. 3 You got your stuff and you got Lakeside. 4 And we want you to be prosperous, and we 5 want you to be very successful. And we want to 6 be helpful to you. We want you guys to be able 7 to reach out to our staff at any time and be 8 able for us to assist you guys. 9 So being that's said, Lyndsey, you got 10 anything else before I turn it over to 11 Mr. Showalter? 12 MS. RYAN: I don't believe so. But if 13 there's any further questions or anything else 14 comes up, feel free to ask. We'll be here. 15 MR. CALLAHAN: Well, good job. I really 16 appreciate you helping us understand where you 17 guys are at right now. And you've done a great 18 job. 19 So I think, Council, any other questions 20 for Trappe at this time? 21 MR. LESHER: I will add my congratulations</p>	<p>1 like to do. 2 MR. CALLAHAN: Yes, sir. 3 MR. SHOWALTER: Is first address what 4 Resolution 281 accomplished and then what might 5 be the impact of undoing it. 6 MR. CALLAHAN: Okay. Yes, sir. 7 MR. SHOWALTER: And then speak a little 8 bit about what is happening at Lakeside. 9 And like I said, I'm happy to be 10 interrupted and take questions at the Council's 11 pleasure. 12 MR. CALLAHAN: Well, let's make sure if 13 somebody has a question, we want to be 14 respectful and not all talk at one time. So if 15 somebody has something, just let me know and 16 we'll ask Mr. Showalter. 17 MR. SHOWALTER: So I think the first 18 thing, it's important to understand the facts 19 about what Resolution 281 did, what it 20 accomplished. And so I've got a number of 21 different bullets.</p>
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<p>1 to Trappe for taking that enormous step forward 2 with their PER for the upgraded plant. That's 3 an important and necessary step and that will 4 have benefits far beyond Trappe. 5 MR. CALLAHAN: Right. 6 MR. LESHER: And you're to be commended 7 for doing that. 8 MR. CALLAHAN: Thank you, Mr. Leshner. I 9 couldn't agree more, Mr. Leshner. Thank you. 10 So I see Mr. Showalter is in the 11 background there. Welcome tonight. 12 MR. SHOWALTER: Thank you, President 13 Callahan. 14 MR. CALLAHAN: Yup, yup. So you've heard 15 what's going on on a lot of these subjects and 16 everything. 17 So we would like to hear from you, if you 18 would, please, and reassure us that we're 19 headed in the right direction. 20 MR. SHOWALTER: So I'm happy to take 21 questions at any time, but I think what I'd</p>	<p>1 I think first thing it accomplished is it 2 accurately reflects the municipal boundary as 3 changed by the annexation of the Lakeside 4 property in 2003. Annexation was completed a 5 year after the 2002 water and sewer plan was 6 adopted. It didn't reflect, your plan didn't 7 reflect the town boundary until the adoption of 8 Resolution 281. So for nearly 20 years, the 9 county plan didn't reflect the town boundary, 10 and that's been updated. 11 The second thing is it updated the service 12 area designations in the water and sewer plan 13 to classify the properties specified in the 14 resolution and then owned by Trappe East 15 Holdings Business Trust as depicted by Exhibits 16 A and B of Resolution 281. 17 And I know there has been discussion about 18 some mapping errors, some drafting errors. The 19 case law in Maryland is very clear that the 20 intent of the legislature controls. And 21 Resolution 281 is very clear, both in its title</p>

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1 and its text. It identifies the parcels that
 2 were the subject of the application and the
 3 parcels that were discussed at the Planning
 4 Commission and County Council public hearings,
 5 the parcels that were intended to be changed.
 6 So I submit to you it designated as either
 7 S-1, W-1 or retain the S-2, W-2 designation for
 8 those properties that were specifically
 9 identified on the application and identified by
 10 the text of the title and the text of the
 11 resolution itself.
 12 I don't believe Resolution 281 has a legal
 13 effect on the additional parcels that were
 14 either upgraded or downgraded but not
 15 specifically identified in the resolution or
 16 discussions during the public hearing.
 17 And I'll come back to cleanup of that
 18 mapping issue at the end of my comments.
 19 MR. CALLAHAN: That's fine.
 20 MR. SHOWALTER: So approximately one-half
 21 of the developable portion of the Lakeside

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1 project site is designated as S-1, W-1. And I
 2 think it's important to understand when you
 3 look at the land areas, Mr. Clarke indicated it
 4 was about three-fifths. And I think that's
 5 probably correct from a total land area
 6 perspective. But the S-1, W-1 designation
 7 includes all of the spray irrigation fields,
 8 the bulk of the forests that are in forest
 9 conservation, and the lake, because there will
 10 be some public recreational amenities that will
 11 get water and sewer access around the lake.
 12 So when you look at it and you exclude the
 13 large lake, the spray fields, and the forest,
 14 it's about 50/50 in terms of S-1 or S-2
 15 designations.
 16 The Resolution 281 also updated the
 17 narrative description in the text of the water
 18 system components of your plan to more
 19 specifically describe the improvements that are
 20 contemplated for the Town of Trappe, and
 21 Lakeside in particular.

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1 And so when this water and sewer plan was
 2 adopted in 2002, Mr. Clarke indicated that at
 3 that time he reached out to each of the
 4 municipalities in the county to understand what
 5 their needs and issues were, what their
 6 anticipated challenges and changes would be.
 7 And Resolution 100, which adopted the 2002
 8 report of the review, included language that
 9 specifically contemplated the creation of a new
 10 water and sewer district called Trappe East.
 11 And it included provisions for the Trappe East
 12 development that the town suggested to the
 13 county is what they had envisioned at that
 14 time.
 15 So it had a general provision that
 16 contemplated extension of water systems to
 17 serve portions of Trappe East in 2003, but not
 18 details.
 19 Engineering has been done. Water system
 20 capacity studies have been completed. There's
 21 a lot more details now obviously than there

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1 were back in 2002.
 2 So 281 updated the text to specifically
 3 describe new wells that are being added in
 4 pairs, water treatment, the sequence of
 5 connecting the first well couplet and water
 6 treatment to the town's distribution system,
 7 the construction of a water tower, and other
 8 details.
 9 The next thing that 281 did is it updated
 10 the narrative text regarding sewer systems.
 11 And as I mentioned, the 2002 plan specifically
 12 contemplated the creation of a separate sewer
 13 district called Trappe East. And based upon
 14 information the county received from conceptual
 15 infrastructure thinking by the Town of Trappe
 16 back in 2002, the 2002 report of the review
 17 specifically provided for a 540,000-gallon
 18 wastewater treatment plant to serve Trappe
 19 East. It noted that that plant would discharge
 20 its wastewater by spray irrigation. It
 21 described that as a BNR level treatment plant.

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1 The 2021 amendment, the Resolution 281
 2 amendments, updated that text to require the
 3 Lakeside, formerly Trappe East, wastewater
 4 treatment plant to be ENR rather than BNR. It
 5 also provided for phased construction of the
 6 wastewater treatment plant.
 7 Twenty years ago, the method of
 8 construction that was anticipated was the
 9 construction of a large concrete tank structure
 10 with 540,000 gallons of capacity. In other
 11 words, construction of the whole treatment
 12 plant at once, which presents operational
 13 challenges.
 14 MS. PRICE: Ryan.
 15 MR. SHOWALTER: Yes.
 16 MS. PRICE: Sorry.
 17 MR. CALLAHAN: Go ahead, Ms. Price.
 18 MS. PRICE: The audio is terrible. Can
 19 you back up? Just back up like three sentences
 20 where you said -- I lost you. You said
 21 described as a BNR level plant. If you just go

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1 back, pick up from there.
 2 I'm sorry. I was having some audio
 3 issues. Thank you.
 4 MR. SHOWALTER: Sure. So 2002 report of
 5 the review authorized the construction of a
 6 BIOLAC treatment system with BNR level
 7 treatment. B, as in biological nutrient
 8 removal.
 9 281 changed that text to require the
 10 Lakeside, or Trappe East, service district to
 11 be served by an ENR, or enhanced nutrient
 12 removal plant. So required a higher level of
 13 treatment than was in the plan before 281 was
 14 adopted.
 15 The other structural change to the
 16 wastewater treatment plant, before the plant
 17 was proposed as a BIOLAC plant that was
 18 constructed all at once, changes in technology
 19 allow that to be constructed in a modular
 20 fashion now. So the new text provides for
 21 phased construction of the treatment plant.

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1 It also authorized service of the initial
 2 30 to 40,000 gallons of flow to be through the
 3 town's existing wastewater treatment plant.
 4 And I understand that's probably the principal
 5 focus of all of this discussion over the last
 6 many months.
 7 Another thing that Resolution 281 did is
 8 it added details regarding financial management
 9 for the Trappe East sewer district. It was not
 10 contained in the 2002 report of the review.
 11 Notably, 281 updated capital improvements
 12 tables in both the water and sewer portions of
 13 your plan. So it updated the date for
 14 construction of the water distribution system
 15 for Trappe East, or Lakeside. The 2002 plan
 16 contemplated that that infrastructure would
 17 begin construction in 2003. It obviously
 18 didn't begin in 2003. So Resolution 281
 19 updated that date to 2020.
 20 As you know, construction of that started
 21 in 2021.

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1 It provided for the addition of a water
 2 treatment facility and well couplet in the
 3 Trappe East service district, as I mentioned
 4 before.
 5 It changed the timing for extension of the
 6 Trappe East water supply system from 2006 to
 7 occur over the next eight years. So the 2002
 8 plan calls for the Trappe East district to be
 9 further extended in 2006. No construction
 10 occurred before 2021. So your current plan, as
 11 amended by Resolution 281, calls for that
 12 system to be expanded between 2023 and 2030.
 13 The capital improvements table and the
 14 water system now calls for the construction of
 15 a 250,000-gallon water tower to help maintain
 16 water pressures in the Trappe water system.
 17 It also deferred the date for extension of
 18 water supply in the White Marsh service
 19 district, which has nothing do with Lakeside.
 20 But the 2002 plan before its amendment
 21 contemplated that the White Marsh service

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<p>1 district would have water extended in 2004.</p> <p>2 The plan as amended calls for that extension to</p> <p>3 occur in 2025 through 2030.</p> <p>4 And then notably, the last thing it added</p> <p>5 to the water table is it added a new capital</p> <p>6 project for the town, which was a new well and</p> <p>7 treatment system in the Piney Point aquifer at</p> <p>8 a cost of about \$1.1 million. And I don't</p> <p>9 believe Ms. Ryan mentioned it, but that well</p> <p>10 is, as I understand it, is substantially, it</p> <p>11 was substantially completed last month. And</p> <p>12 final completion of that improvement is</p> <p>13 anticipated in the next several weeks.</p> <p>14 So that's a capital improvement that the</p> <p>15 town couldn't have obtained permits for absent</p> <p>16 Resolution 281. You put it in the capital</p> <p>17 improvements table at the request of the town,</p> <p>18 MDE issued those permits, the town spent a</p> <p>19 little over a million dollars and has</p> <p>20 constructed a new well based on Resolution 281.</p> <p>21 MR. CALLAHAN: So Mr. Showalter, so the</p>	<p>1 MR. SHOWALTER: Well, all of -- everything</p> <p>2 related to Lakeside was permitted by the 2002</p> <p>3 report of the review.</p> <p>4 281 has more detail. So it provides</p> <p>5 better granularity for the infrastructure</p> <p>6 planning and it updates the dates.</p> <p>7 Your plan before 281 said all of that</p> <p>8 would happen 18 years ago. It didn't. So you</p> <p>9 updated the dates. And in some cases, where it</p> <p>10 talks about the additional extension into the</p> <p>11 rest of Lakeside, you pushed that out to 2025</p> <p>12 through 2030. So you updated the timing.</p> <p>13 The component that is really truly new was</p> <p>14 the construction of a new well and water</p> <p>15 treatment system for the town, which they've</p> <p>16 already completed.</p> <p>17 MR. CALLAHAN: Got you.</p> <p>18 MR. SHOWALTER: The next changes that 281</p> <p>19 accomplished are in the table 21, which is the</p> <p>20 Trappe sewer system capital improvements table.</p> <p>21 And again, it's not coincidence that the</p>
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<p>1 upgrade of that water system, is that handling</p> <p>2 both? Is that handling both?</p> <p>3 MR. SHOWALTER: Yes. So the town will</p> <p>4 have one water system. The water system is</p> <p>5 looped. And so the water supply, the water</p> <p>6 system has adequate capacity to serve the</p> <p>7 initial phases of the Lakeside project.</p> <p>8 The first pair of wells that will be added</p> <p>9 to the system have been constructed. They</p> <p>10 already exist. All that we need to do is add</p> <p>11 treatment and connect those into the water</p> <p>12 system.</p> <p>13 And then as additional demands occur on</p> <p>14 the system, a water tower, a second water</p> <p>15 tower, will be added to maintain pressures.</p> <p>16 And then additional wells and water treatment</p> <p>17 will occur throughout the build-out of the</p> <p>18 project.</p> <p>19 MR. CALLAHAN: I see. What you just said,</p> <p>20 I'm just trying to follow you a little bit, 281</p> <p>21 allowed this to happen?</p>	<p>1 2002 report of the review referenced a</p> <p>2 540,000-gallon wastewater treatment plant for</p> <p>3 Trappe East. That was the conceptual size that</p> <p>4 was determined to be needed for an annexation</p> <p>5 that the town was beginning to think about</p> <p>6 infrastructure for. And that's what we're</p> <p>7 building today.</p> <p>8 So your table still contemplates a</p> <p>9 540,000-gallon wastewater treatment plant, but</p> <p>10 the time frame for construction was changed</p> <p>11 from 2003, which is when it was anticipated to</p> <p>12 be starting in 2002 when the plan was adopted,</p> <p>13 to 2020. So you pushed that forward 17 years.</p> <p>14 Made similar changes on the extensions of</p> <p>15 that sewer collection system throughout</p> <p>16 Lakeside. And instead of saying you're going</p> <p>17 to start in 2006, it pushes future extensions</p> <p>18 down into 2025 through 2030 time frame.</p> <p>19 Similar to water for the White Marsh</p> <p>20 service district, you adjusted the date for</p> <p>21 extension of sewer to the White Marsh district</p>

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1 from 2004 to 2025 through 2030.
 2 The extension of sewer along Howe Point
 3 Road was contemplated in 2002 to begin in 2005.
 4 That hasn't happened. So Resolution 281 pushes
 5 that capital improvement project out to 2022.
 6 And then these are two really significant
 7 changes. Resolution 281 amended the capital
 8 improvements table to provide for upgrade or
 9 replacement of Trappe's existing wastewater
 10 treatment plant. So as Ms. Ryan just reported,
 11 because you adopted 281 and 281 provides for an
 12 upgrade of the town's treatment plant to ENR,
 13 they're able to complete and submit a PER to
 14 MDE, which is undergoing review. That was
 15 added by Resolution 281.
 16 It wasn't added because of the discussion
 17 that's occurred over the last six months. It
 18 wasn't added because of the violations that
 19 occurred in February.
 20 That capital improvement was identified by
 21 the town, discussed with Mr. Clarke beginning

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1 in 2019, and was presented to the county in the
 2 application as an improvement the town intended
 3 to make beginning as indicated in that table.
 4 And the county adopted 281 and put the capital
 5 improvement in the program.
 6 The other capital improvement, which goes
 7 to the questions about I&I, the town
 8 specifically identified, again, back in 2019
 9 and '20 a need and a desire to further address
 10 I&I in its system. So the town called for the
 11 repair or replacement of seven of their
 12 existing pump stations and gravity lines
 13 throughout the town.
 14 That was put in 281. The Council's
 15 adoption of 281 added that as a capital
 16 improvement.
 17 The Harrison Circle lining of collection
 18 system was done by the Council and completed a
 19 little more than a year ago.
 20 Notably, the town has incurred expenses
 21 and borrowed in excess of a million dollars,

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1 about a million and a half dollars, for design
 2 of pump stations that are in Resolution 281.
 3 And that upgrade is intended to address the I&I
 4 issues that exist in the town.
 5 So I think the next thing I'd like to talk
 6 about is what would be the impact of undoing
 7 Resolution 281, whatever that means.
 8 And to be very clear, for the reasons I've
 9 previously expressed and don't think we need to
 10 get into tonight, I do not believe the County
 11 Council has the legal authority to rescind
 12 Resolution 281. So I'm just speaking
 13 hypothetically. I'm not conceding that you
 14 can. But I'm just saying if you did that and
 15 purported to rescind it, what would that mean
 16 for the Lakeside project and the Town of
 17 Trappe.
 18 The first is phasing of the Lakeside water
 19 and sewer service designations. And as
 20 Mr. Clarke advised, MDE has indicated for years
 21 that if used, the S-2 designation on figure 24

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1 of the 2002 report of the review, has the
 2 service area designation under the water and
 3 sewer plan. And I'll come back to that in a
 4 minute. I agree with that interpretation.
 5 And MDE has also, as I understand it,
 6 consistently advised the county engineer that
 7 because of the passage of time and the time
 8 that was specified in the 2002 report of the
 9 review, it didn't matter whether it's S-1 or
 10 S-2. Everything that's in the Town of Trappe
 11 is available for service.
 12 So what Resolution 281 did, is you adopted
 13 new water and sewer service area designations.
 14 And you designated the southern half of the
 15 project as S-2, W-2. And under the county's
 16 water and sewer plan, S-2, W-2 is a service
 17 designation that indicates it's programmed for
 18 progress within a three to five-year period
 19 from the date of adoption of the amendment.
 20 So before 281, the entire 2,500 units of
 21 Lakeside in MDE's minds could be served by

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<p>1 water and sewer. After the adoption of 281, 2 the southern half of Lakeside isn't available 3 for service until three to five years after 4 your adoption of 281. 5 If you rescind 281, my belief is you 6 revert back to that S-2 designation for the 7 entire property, but the three to five-year 8 measurement is from the date of adoption of the 9 plan. So it's three to five years from 2002, 10 not three to five years from your rescission. 11 So in other words, the entire area is available 12 for service. 13 The rescission or unwinding, whatever the 14 right verb, is of Resolution 281 would change 15 the specifics about the Lakeside wastewater 16 treatment plant. To go back to the language 17 that's in the 2002 plan, there's still specific 18 provisions for a 540,000-gallon per day 19 treatment plant that will use spray irrigation 20 for its disposal, but it would be permitted to 21 use BNR, biological nutrient removal, treatment</p>	<p>1 it's been paid for that capacity. 2 The developer has progressed with 3 construction on the basis of that agreement. 4 Also on the basis of both that agreement 5 and Resolution 281, construction plans were 6 designed for a pump station that will send 7 wastewater initially to the town's collection 8 system and then ultimately to the Lakeside 9 treatment plant. Those plans were submitted. 10 They were reviewed and approved by the town's 11 engineers. And then they were submitted to 12 MDE. And MDE reviewed and approved those plans 13 and issued a construction permit for the pump 14 station and force main connection to the Town 15 of Trappe in April of 2021. 16 That force main has been constructed. 17 It's in the ground. The wet well and pump 18 station are in the ground. Mechanical 19 equipment is being installed. The pump will be 20 set as soon as electric is extend to the pump 21 station, but that improvement is substantially</p>
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<p>1 technology instead of today's standard of 2 enhanced nutrient removal. So you would permit 3 a less stringent permit to be issued. 4 The first 120 homes to be connected to the 5 Trappe wastewater treatment plant, and again, 6 as I mentioned, I understand that's largely the 7 focus of comments that you've received, I don't 8 believe, even if you have the ability to 9 rescind 281, you will have any legal effect on 10 the connection of those homes. And that's for 11 a couple of reasons. 12 After the county adopted 281, it went to 13 MDE. MDE also reviewed and approved Resolution 14 281. 15 On the basis of those approvals, the town 16 and the developer entered into a contract 17 pursuant to which the town allocated 120 18 equivalent dwelling units, or EDUs, of capacity 19 to the Lakeside project. The town has received 20 payments in excess of \$600,000 using the town's 21 standard sewer capacity connection charges, and</p>	<p>1 complete. 2 So even if you have the ability to rescind 3 281, I don't believe it will be permitted by 4 MDE or the courts for improvements that were 5 contractually arranged between the town and the 6 developer and specifically permitted by MDE and 7 constructed before your rescission, I don't 8 think that's going to have any legal effect. 9 The existing town well project, same 10 analysis in my mind as the force main 11 connection for the first 120 homes. That well 12 was financed by the town. It was permitted by 13 MDE. It's almost complete. I think that well 14 will be allowed to stay and will be allowed to 15 be utilized by the town. 16 Two important things that I think will be 17 impacted by rescission. MDE's review of the 18 PER and funding for upgrade of the town's 19 wastewater treatment plant, as Mr. Thomas 20 indicated, capital improvements have to be 21 consistent with the county's water and sewer</p>

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1 plan. So if the county rescinds 281 and
 2 eliminates the provisions for upgrade of the
 3 town treatment plant, I'm not sure how MDE will
 4 review a PER, discuss funding for a project
 5 that's not scheduled as a capital improvement
 6 but is required to be.

7 And the same is true for the pump station
 8 project. It might be slightly different
 9 because, as I understand it, the town has
 10 borrowed the money and started design. But the
 11 town doesn't have construction permits for its
 12 pump station upgrades to address I&I.

13 If you rescind 281 and those upgrades, the
 14 capital project is not in the table, I think
 15 there's a significant question as to whether
 16 MDE can issue a construction permit for the
 17 pump station upgrades.

18 So let me stop there and see if there are
 19 questions.

20 MR. CALLAHAN: Okay. So I'd like to back
 21 up to where the town and MDE and the developer

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1 had a contract together to hook up to the town.
 2 So run by that one more time so everybody
 3 understands it.

4 MR. SHOWALTER: So after MDE formally
 5 approved 281 and the provision that authorized
 6 the temporary connection of the 120 homes was
 7 in the county water and sewer plan, the town
 8 and developer engaged in negotiations about
 9 that connection.

10 One of the provisions of Resolution 281
 11 specifically says that the connection for the
 12 startup phase of Lakeside is subject to
 13 availability of capacity and approval of the
 14 town.

15 So the town's engineers conducted an
 16 evaluation to determine how much capacity the
 17 plant had, how much they wanted to reserve for
 18 infill and other development and, therefore,
 19 identify what was remaining and available. And
 20 they confirmed that they could make or would
 21 make available 120 units of capacity in the

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1 treatment plant.

2 The town and the developer signed an
 3 agreement in January of 2021 under which the
 4 town allocated that capacity in the existing
 5 plant to the Lakeside project, and the
 6 developer agreed that he would pay for that
 7 capacity at the town's current rates.

8 My understanding is the town intends to
 9 use that money to help reduce the debt or pay
 10 for their capital improvements.

11 We've paid the fees in advance of needing
 12 it to the town. So in my mind, that agreement
 13 has been fully executed, signed and performed.

14 MR. CALLAHAN: Mr. Leshner.

15 MR. LESHNER: Mr. Showalter, could you
 16 review the timetable? What's likely, what's
 17 committed, what's required for those first 120
 18 homes to revert to the new ENR plant that
 19 Lakeside plans to construct?

20 MR. SHOWALTER: Absolutely. So the
 21 initial startup phase of the project, as

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1 described in Resolution 281, would have no more
 2 than 30,000 gallons per day of flow.

3 The town didn't allocate a flow rate. The
 4 way the town allocates capacity is on the basis
 5 of EDUs. And so the town has permitted 120
 6 units to connect to its system.

7 One important nuance to understand is that
 8 the town will look at the flow they generate
 9 and determine how much capacity it has in the
 10 future. So the fact that they've allocated 120
 11 EDUs to this project doesn't necessarily mean
 12 this project will generate 30,000 gallons per
 13 day of flow. We think it will be less than
 14 that, but that's a conservative number that's
 15 used when allocating capacity.

16 So that agreement permits up to 120 lots
 17 to be created for connection to the town
 18 system.

19 The construction that began this summer,
 20 this past summer in July of 2021 is
 21 construction in the first section of Lakeside,

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<p>1 section 1A. It consists of 95 lots. And of 2 those 95 lots, there's a sales center, a model 3 center. So 12 of those lots will be model 4 homes. They'll be constructed early. 5 And so you will see those homes. And I 6 guess when someone is visiting a model, there 7 may occasionally be some rest room use, but 8 they're going to generate very little flow 9 because they're not going to be occupied. 10 Eighty-three of the 95 homes will be 11 constructed and available for occupancy. 12 The second section of that startup phase, 13 section 1B, is an additional 25 lots. So the 14 total anticipated to be connected is up to 120 15 homes. 16 We can't construct a model home without 17 creating a lot. So we'll allocate capacity to 18 the model home, but really only 107 of the 120 19 will potentially be available for occupancy 20 because the others will be models and not 21 occupied by families.</p>	<p>1 months we believe is a reasonable projection of 2 the time frame for construction. 3 As soon as that treatment plant is 4 operational, the pump station and force main 5 that connect sections 1A and B to the Town of 6 Trappe will be redirected to the new Lakeside 7 wastewater treatment plant and flow from 8 sections 1A and B will go to the Lakeside ENR 9 plant. 10 So if MDE issued a construction permit 11 March 1st, then we could be looking at a 12 Lakeside plant that is completed in fall of 13 2023 and flow diverted in that direction at 14 that time. 15 That may very well be before the 107 homes 16 that are intended to be available for occupancy 17 will even be all occupied. The timing of 18 build-out, timing of occupancy is going to be 19 driven by the market. And if I had a crystal 20 ball, we'd probably be in a different place. 21 So we don't know what that timing will be.</p>
<p>1 The construction of the Lakeside 2 wastewater treatment plant will begin as soon 3 as it is permitted. So MDE is reviewing public 4 comments that were collected in late October on 5 the discharge permit. MDE has to issue a 6 discharge permit for the spray irrigation 7 disposal and issue a construction permit that 8 relates to the discharge limits established in 9 that discharge permit. 10 I don't know what the timing of MDE's 11 action is. I hope that it occurs in the near 12 future, but I don't control MDE's timing. 13 As soon as we have a construction permit 14 for the Lakeside wastewater treatment plant, 15 the first phase of that plant will begin 16 construction. And the anticipated time frame 17 for construction of the Lakeside wastewater 18 treatment plant is approximately 18 months. 19 We hope we can do it sooner than that. If 20 there are COVID-related procurement issues, it 21 may take a month or two or three longer, but 18</p>	<p>1 But contrary to suggestions you've heard in the 2 past, it is not our intent to construct this 3 project and live off of the 120 units and defer 4 construction of that treatment plant 5 indefinitely. 6 It's exactly the opposite. We intend to 7 start construction as soon as construction 8 permits are issued. 9 MS. PRICE: Mr. Showalter. 10 MR. SHOWALTER: Yes, ma'am. 11 MS. PRICE: Hello? Okay. I mean you have 12 said that many, many times -- and can you hear 13 me? 14 Let me see if I can get some video up. 15 MR. SHOWALTER: I can hear you. I can 16 hear you fine. 17 MS. PRICE: Okay. And the resolution that 18 I put out basically just said what you just 19 said and put it in writing. 20 And I've asked you that before. Can you 21 put that in writing.</p>

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<p>1 Intent is a wonderful thing. But as any 2 good person, business person knows, if you 3 don't have it in writing, then you ain't got 4 it. And I believe the intentions are good, but 5 circumstances happen.</p> <p>6 And so that's really what I put forth with 7 313, was just basically to get that in writing, 8 that once they construct -- give you the 9 discharge permit. Eighteen months from there, 10 which is really following your timeline. I 11 listened to your words when preparing that 12 resolution.</p> <p>13 And a couple of months ago, it seemed like 14 you and the Town of Trappe were on board with 15 that. And I think there was some conversations 16 that had been had. I think Mr. Callahan and 17 Mr. Divilio may have met with you. And that 18 seemed fine. And somehow 313 has kind of 19 fallen apart.</p> <p>20 So is it possible without us needing to do 21 anything from a legislative action for you to</p>	<p>1 So again, I was just trying to get that 2 piece in writing.</p> <p>3 Is there another way that we can 4 accomplish this and adding something in 5 writing?</p> <p>6 MR. SHOWALTER: Well, a couple of 7 responses. It is -- the notion that we will 8 connect those homes, that we shall connect 9 those homes to the Lakeside plant as soon as is 10 it complete was added to the DRRRA. So this 11 general comment or question arose before the 12 Town Council's hearing on the first amendment 13 to the developer's rights and responsibilities 14 agreement. They specifically discussed, or we 15 specifically discussed an amendment or a change 16 before the public hearing. And then they 17 revised that document to make the redirection 18 of flow mandatory. So that was put into the 19 DRRRA.</p> <p>20 I've indicated to you before that we don't 21 have a problem, speaking on behalf of the</p>
<p>Page 95</p> <p>1 add that to the agreement, whether -- because 2 it's not in the DRRRA with the town. And I 3 think a whole lot of people would feel more 4 comfortable.</p> <p>5 That's all I was trying to accomplish with 6 313, was to get that wonderful intent in 7 writing so that it couldn't stay connected any 8 longer than that.</p> <p>9 And so is there a way that we can get that 10 in writing, whether it's from you guys in the 11 DRRRA, whether we come back -- because now at 12 this moment I can't do anything or we can't do 13 anything with 313 because the Planning 14 Commission didn't certify it consistent with 15 the Comprehensive Plan, which really not sure 16 why. I think they reached a little bit in 17 going to that one little line of the water 18 resources element because it really did meet -- 19 I think it was Patrick that described all the 20 seven elements, or Miguel maybe, that described 21 all the seven elements for consistency.</p>	<p>Page 97</p> <p>1 developer, committing to beginning construction 2 of that wastewater treatment plant as soon as 3 we have those permits.</p> <p>4 Now, if those permits are appealed, 5 obviously appeal periods have to lapse. I mean 6 we have to be in a position where we can truly 7 construct the plant.</p> <p>8 And that sentence of Resolution 313 I 9 think was consistent with our discussions.</p> <p>10 And I don't have a problem. I've 11 committed on the record multiple times and I'm 12 doing it tonight. And we can work with you to 13 find another way to memorialize it. It is our 14 intent and we're willing to commit to 15 constructing the Lakeside treatment plant first 16 phase as soon as we have final, non-appealable 17 construction permits for that project.</p> <p>18 MS. PRICE: That would be great.</p> <p>19 Again, we worked on the language and tried 20 really hard to get that language beyond the 21 appeals process because we know that you can't</p>

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1 do anything until MDE issues that discharge
 2 permit and that there might be lawsuits.
 3 But that's the other thing. Is that once
 4 we have it in writing, because legally we
 5 don't, I say we, whoever, Talbot County, Trappe
 6 citizens, if it didn't happen, oh, we had the
 7 best of intentions but there was nothing in
 8 writing so nobody has done anything wrong.
 9 So I would really appreciate you putting
 10 some language and putting it in whatever
 11 document is appropriate so that that does
 12 happen as soon as MDE continues going through
 13 their 3,700 comments that they have to go
 14 through to figure out what -- if the permit --
 15 when it's issued and what kind of permit it's
 16 going to be.
 17 So if you will commit to putting that
 18 language together and in the appropriate
 19 document, I think that would be extremely
 20 helpful.
 21 MR. SHOWALTER: I'm happy to do so.

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1 I would say the one thing that we've had,
 2 that I've always had as a caveat that I want to
 3 make clear a change in the commitment, the
 4 18-month time frame is a reasonable best guess.
 5 So we don't control procurement. We don't
 6 control timing of construction. We can control
 7 when we start and we can commit to working in
 8 good faith.
 9 And believe me, it's in our interest to
 10 have that completed because if the market is as
 11 strong as it has been for the last several
 12 months, the 120 homes of capacity in Trappe
 13 will be constrained.
 14 I think that plant constructed is what we
 15 need to have in order to continue construction
 16 progress with the project. It's clearly in our
 17 interest to make it happen.
 18 I just don't want to be in a position if
 19 we're at month 19 or 20 for reasons beyond our
 20 control, that everyone becomes upset and says
 21 that it's bad faith, misrepresentations and

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1 default, because that obviously would not be
 2 where we --
 3 MS. PRICE: No. As long as everything
 4 is -- once it starts and you're going through a
 5 process and you don't just stop for some
 6 arbitrary reason, you know, okay, fine, you
 7 can't get a pipe because it's stuck on a boat
 8 somewhere out in the middle of the Atlantic
 9 Ocean. I mean that's completely different.
 10 But as long as all the efforts are being
 11 made to continue and you don't go oh, my gosh,
 12 we can't sell any homes, so I don't want to
 13 invest however many millions of dollars it
 14 takes because the market changes, which we know
 15 can change any minute.
 16 So as long as all the efforts are being
 17 made, even if, again, if you have some supply
 18 chain issues, which we certainly have now, but
 19 not simply because of cost or the market.
 20 MR. SHOWALTER: Happy to commit to that.
 21 And there are certainly members of the

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1 public I understand who don't want to see this
 2 project happen. And that's their principal
 3 objective in comments.
 4 I think there are others who accept that
 5 this project is going to happen and want to see
 6 all of the wastewater treated with ENR level
 7 technology.
 8 And I think that the latter is where this
 9 is going to head.
 10 And frankly, I think it's in the Council's
 11 interest, rather than relying on anything we
 12 commit to, the best way to see this happen is
 13 to have MDE issue discharge and construction
 14 permits so we can put the shovels where these
 15 words are and build the plant. And we're
 16 prepared to do that as soon as we have a
 17 permit.
 18 MR. CALLAHAN: Ms. Price, are you good?
 19 Okay.
 20 MS. PRICE: I am good with that. That's
 21 what I was trying to accomplish. Thank you.

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1 MR. CALLAHAN: Mr. Leshner, are you on
2 here?
3 MR. LESHNER: Sorry. I'm back on. I had a
4 router crash. And I'm now in by phone, yes.
5 MR. CALLAHAN: Did you hear what Ms. Price
6 asked?
7 I might -- I didn't know if you missed
8 some of that from Mr. Showalter.
9 MR. LESHNER: I did. But you know, at this
10 point, we don't need to lead all the public
11 through this. I can go back and listen to the
12 recording later --
13 MR. CALLAHAN: No problem. I just want to
14 make sure if you wanted to hear it real quick,
15 you hear it from Mr. Showalter. That's all.
16 MR. PACK: I'm back online, too, Chuck.
17 Sorry. Corey.
18 MR. CALLAHAN: Okay. No problem, Corey.
19 I appreciate that. Corey, do you have anything
20 for Mr. Showalter?
21 MR. PACK: No. I picked up the last of

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1 Ryan's comments. I've heard them before.
2 I think he's right on point. As soon as
3 MDE issues the permit, they'll start the
4 construction of the ENR plant. So they can't
5 move until MDE does their job and issues their
6 permit.
7 So I don't know what more we can ask of
8 them. Once they get the permit, they'll start
9 construction.
10 MR. CALLAHAN: Yup, yup. I agree, I
11 agree.
12 Mr. Divilio.
13 MR. DIVILIO: I don't have any questions
14 for him at this time. Thank you.
15 MR. CALLAHAN: Okay. So let's, hey, Ray,
16 I think let's give -- I think you've got Corey
17 in Public Works, right?
18 MR. CLARKE: Yes, sir.
19 MR. CALLAHAN: Yes, sir. I want to give
20 him the courtesy, if he would like to say
21 anything. Sorry. Corey, you on?

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1 COREY: Yes, sir, I am on. Can you hear
2 me okay?
3 MR. CALLAHAN: Yes, sir, I can. Yes, sir.
4 Appreciate you being here tonight. You're
5 an important piece of the puzzle here, and
6 we're glad you're here tonight.
7 And I just want to make sure that
8 obviously you've been listening to everything.
9 If you have any comments.
10 COREY: I don't really have a specific
11 statement. I have been carefully listening
12 along, and several other members of the Public
13 Works Advisory Board are also on listening in.
14 I think certainly we're all eager to just
15 ensure that we have public health and
16 environmental health and safety concerns at top
17 of mind and that all the proper processes are
18 taken to ensure that everything is handled as
19 it should be.
20 So I mean really I don't have any specific
21 comments. But if anyone else from the Public

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1 Works Advisory Board has anything, I'm certain
2 others can speak on their behalf as well.
3 Thanks.
4 MR. CALLAHAN: I'll just leave it to the
5 chairs here. So we'll move on.
6 So I want to move on to the chair of the
7 Planning Commission. So Chip, are you there?
8 MR. COUNCELL: I am, I am. So I
9 appreciate the opportunity to join in tonight.
10 So I would be remiss if I didn't say, as
11 most of you know, the Planning Commission spent
12 several months in 2021 looking at some of the
13 new information and things we found. And in
14 our November decision, we did decide by a three
15 to two vote that the initial hookup of the 120
16 homes was inconsistent Talbot County's
17 Comprehensive Plan.
18 And I understand Mr. Showalter's concerns
19 and the information that he brought about what
20 had developed prior to our decision that the
21 Planning Commission did not know about.

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<p>1 I commend the Town of Trappe on their 2 recent action. I think that's good. I look 3 forward to the day that happens.</p> <p>4 Unfortunately, when I look at the seven 5 standards of the Comprehensive Plan, those 6 economic factors is not one, as well as a 7 timeline is not one.</p> <p>8 So I can sit here and say I am still 9 concerned about Trappe Creek and think we need 10 to do whatever we can to ensure the safety of 11 that. And I think most would agree with that.</p> <p>12 One thing we do look forward with working 13 with the County Council. I think we all got a 14 letter from Lee Curry, you did, we were cc'd 15 on it, where MDE would like for the Planning 16 Commission and the County Council to move 17 forward on this so they know how the county 18 feels.</p> <p>19 So we look forward to that in the spirit 20 of cooperation.</p> <p>21 So thank you for the opportunity to speak.</p>	<p>1 That's what we're all here for. And try to get 2 this thing pushed ahead and done the right way.</p> <p>3 It's a big deal. It is a big deal. And 4 I'm proud of everybody for doing that.</p> <p>5 So Ray and Miguel, do you have any last 6 comments on what Mr. Showalter and the Town of 7 Trappe, do you feel comfortable?</p> <p>8 MR. CLARKE: From my perspective, 9 Mr. Callahan, I do feel comfortable.</p> <p>10 Again, we are looking at ENR, enhanced 11 nutrient removal, treatment for both the 12 existing as well as the proposed Lakeside 13 plant, which is basically the best technology 14 we have right now for wastewater treatment.</p> <p>15 The other thing I'll just note is I will 16 be working with the Town of Trappe and MDE on 17 basically the map corrections. Again, this is 18 something that we will work with the town on 19 and make them -- have them a part of this. So 20 we're not -- we try to work with the town on 21 these matters. We're here to help.</p>
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<p>1 MR. CALLAHAN: Thank you, Mr. Council. 2 And I will follow up with what 3 Mr. Council said. Yes, MDE sent me and 4 Mr. Council a letter that they would prefer us 5 to get together. And that's why we're here 6 tonight.</p> <p>7 I mean this really was an eye opener for a 8 lot of people, for Trappe. We all want to get 9 to the finish line on this. And we all want 10 this to be health, just like the gentleman 11 said. We want Talbot County to be safe, 12 healthy, and this project be one of the best 13 projects on the Eastern Shore.</p> <p>14 I know that people feel a little different 15 about it sometimes. But it's our job to make 16 sure that it's healthy, we support Trappe, and 17 we all communicate. I mean that's the bigger 18 thing.</p> <p>19 I can't thank the Town of Trappe, Lyndsey, 20 Public Works, Ray, Miguel, everybody has been 21 at the table. And that's all I can ask for.</p>	<p>1 MR. CALLAHAN: So Miguel, I'm going to 2 lean on you a little bit. Do you feel 3 comfortable with what's being said tonight?</p> <p>4 MR. SALINAS: I do, I do. I think we went 5 over a lot. I don't have anything further to 6 add. So I am okay.</p> <p>7 MR. CALLAHAN: That's great.</p> <p>8 One more thing, Mr. Council. I think 9 it's in our best interest as a Council just to 10 sort of meet with you guys in the next week, 11 ten days, something like that, so that we all 12 can be on the same page.</p> <p>13 We've got a lot of information that we've 14 had tonight. And I think people are starting 15 to get more comfortable with what's been said 16 and clarified.</p> <p>17 Would you agree with that, Mr. Council?</p> <p>18 MR. COUNCELL: Absolutely. We look 19 forward to it.</p> <p>20 MR. SHOWALTER: Mr. Callahan, if I may. I 21 don't want to belabor any points, but there's</p>

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<p>1 one thing that I said I would come back to in 2 my comments and I didn't get to it before 3 you -- 4 MR. CALLAHAN: Yes, sir. Go ahead. 5 MR. SHOWALTER: I don't want anybody to 6 think I omitted it. 7 There's been lots of discussion about the 8 mapping. And Mr. Leshner and Ms. Price both had 9 some questions for Mr. Clarke. I'd like to 10 just briefly address that. 11 MR. CALLAHAN: Absolutely. 12 MR. SHOWALTER: And the first point that I 13 think is important to make is I don't think 14 it's relevant, I don't think it matters whether 15 the property was unprogrammed, S-2, or S-1 in 16 the 2002 plan. 17 The County Council adopted Resolution 281 18 and adopted maps. And those are the maps that 19 control today. 20 But the context in which it's presented is 21 really more as an attack on the process than</p>	<p>1 plan. 2 The purpose of the plan as defined in the 3 State's statute is to provide for the orderly 4 expansion and extension of community water and 5 sewer supply systems in a manner consistent 6 with the Talbot County and Town of Trappe 7 Comprehensive Plan. 8 It's pretty clear. It's an infrastructure 9 planning tool. It's not a growth management 10 tool. It's a tool to provide for orderly 11 expansion of infrastructure. 12 So then when you look at the provisions of 13 the plan, one thing that's very important when 14 you interpret a document is this Council, MDE, 15 the courts are required to interpret the 16 document as a whole and to find an 17 interpretation or a conclusion that gives 18 meaning to all provisions of the document. 19 It doesn't -- it's not permissible to look 20 at an individual map by itself without looking 21 at the text or to construe the text and the</p>
<p>Page 111</p> <p>1 the substance itself. 2 But I think the Council and the public 3 should get the benefit of a little more clear 4 understanding on that. 5 The comprehensive water and sewer plan is 6 a regulatory plan. And when it's interpreted, 7 it's interpreted just like a statute. So if 8 it's clear on its face, the plain meaning in 9 the plan is given effect and that's it. 10 If there's an ambiguity or an uncertainty 11 in the document, then there are rules as to how 12 the document is interpreted. 13 And when there are multiple 14 interpretations that could be reasonable, I 15 don't think there are, I think it's clear when 16 you look at the text of the plan and the maps, 17 the 2002 plan mapped this property as S-2. But 18 even if you assume that multiple 19 interpretations are permissible, then the 20 courts would look to what is the interpretation 21 that's most consistent with the purpose of the</p>	<p>Page 113</p> <p>1 tables in a map in a way that is illogical. 2 So I'd just like to walk briefly through 3 the 2002 plan because I think it would help 4 with some of the public debate. 5 MR. CALLAHAN: Sure. 6 MR. SHOWALTER: The 2002 -- 7 MS. PRICE: Before you start that? 8 MR. SHOWALTER: I'm sorry? 9 MS. PRICE: I'm sorry. I have another 10 meeting that starts in like three minutes. So 11 I'm going to leave you all. 12 I want to thank everybody for being here 13 tonight and thank Lyndsey and Ryan for their 14 presentation. And I'll catch up on the rest of 15 it. Thank you so much. 16 MR. CALLAHAN: Thank you, Ms. Price. I 17 appreciate you being here. 18 MR. SHOWALTER: Thank you. 19 So the capital improvement plans in the 20 water and sewer plan of 2002 are specifically 21 described as plans for the next five years that</p>

Page 114	<p>1 outline proposed measures to upgrade or expand</p> <p>2 the operation of wastewater treatment</p> <p>3 facilities within the incorporated</p> <p>4 municipalities.</p> <p>5 The plan notes that it updates the</p> <p>6 inventory of existing and proposed facilities,</p> <p>7 and it goes through and makes it clear that the</p> <p>8 capital improvement projects are programmed by</p> <p>9 this document.</p> <p>10 Programmed doesn't mean only in a table.</p> <p>11 Programmed means they are programmed for</p> <p>12 construction and service. And it says that the</p> <p>13 table identifies the project, the year in which</p> <p>14 the project will be completed, and other</p> <p>15 relevant documents.</p> <p>16 The plan then goes on in both the water</p> <p>17 and sewer sections to note that service area</p> <p>18 maps are incorporated. And it references</p> <p>19 either figures seven through 14 or sewer maps.</p> <p>20 It specifically incorporates both Town of</p> <p>21 Trappe water maps and both Town of Trappe sewer</p>	Page 116	<p>1 sections in Trappe, then, I think explains why</p> <p>2 there are two maps in Trappe. And figure 23,</p> <p>3 we'll use sewer only to make it easy, figure 23</p> <p>4 is a service area map for the existing Town of</p> <p>5 Trappe. And the text makes that clear.</p> <p>6 The text then goes on to say that in</p> <p>7 addition, the town is going to create new two</p> <p>8 new service districts and that figure 24</p> <p>9 depicts those service districts.</p> <p>10 So figure 24 is not intended to regulate</p> <p>11 the service area of the existing town. That's</p> <p>12 figure 23. Figure 24 depicts the White Marsh</p> <p>13 and Trappe East service districts.</p> <p>14 And the text, again, says that these</p> <p>15 districts are defined using a line and with</p> <p>16 various color, shading, and hatching defining</p> <p>17 the areas of existing and future water or sewer</p> <p>18 service. And it specifically references the</p> <p>19 service designation shading and says that's the</p> <p>20 purpose of that map.</p> <p>21 And finally, the text notes that when the</p>
Page 115	<p>1 maps as the service area maps that depict areas</p> <p>2 programmed to extend water service or sewer</p> <p>3 service in the respective municipality.</p> <p>4 So again, when you look at the text of the</p> <p>5 plan, it adds context and makes it clear that</p> <p>6 figure 24 isn't -- is not an artifact, it's not</p> <p>7 something just set aside to identify some</p> <p>8 hypothetical future plan. It is a service area</p> <p>9 map incorporated by the text that identifies</p> <p>10 those areas programmed for service.</p> <p>11 When you then look at the capital</p> <p>12 improvement programs, both in the water and the</p> <p>13 sewer area, they specifically identify Trappe</p> <p>14 East and call for the improvements to be</p> <p>15 constructed in 2003.</p> <p>16 It's illogical to look at figure 24 and</p> <p>17 say that entire area is unprogrammed for</p> <p>18 service but we're going to construct a</p> <p>19 wastewater treatment plant, a water supply</p> <p>20 system in that area in a year or so.</p> <p>21 The text in both the water and sewer</p>	Page 117	<p>1 land is annexed to the Town of Trappe, the area</p> <p>2 would be designated as S-1 or W-1.</p> <p>3 Reminder, the annexation occurred in 2003.</p> <p>4 There were a couple of attempts by the town and</p> <p>5 county to tackle this in the 18 years after</p> <p>6 annexation. But the W-1, S-1 designation that</p> <p>7 was provided for in the text wasn't implemented</p> <p>8 until recently.</p> <p>9 And the other thing that I think is</p> <p>10 important to highlight, Ms. Price asked</p> <p>11 Mr. Clarke the same question a couple of times</p> <p>12 about the service area designation and the</p> <p>13 county's interpretation.</p> <p>14 And when you look back at the history of</p> <p>15 amendments specifically related to Lakeside,</p> <p>16 the Town of Trappe presented an amendment to</p> <p>17 the County Council in 2004. And the County</p> <p>18 Council introduced a resolution. The</p> <p>19 resolution doesn't say it's amending the</p> <p>20 service designations for Trappe East from</p> <p>21 unprogrammed to W-1, S-1. The County Council</p>

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<p>1 at that time understood the map, and the</p> <p>2 resolution indicates it's an amendment from W-2</p> <p>3 S-2 to W-1, S-1.</p> <p>4 The County Council adopted specific</p> <p>5 findings of fact in their denial of that</p> <p>6 amendment. And the findings of fact describe</p> <p>7 the map amendment that was requested by the</p> <p>8 Town of Trappe as an amendment to "change water</p> <p>9 and sewer classifications from W-2, S-2 to W-1,</p> <p>10 S-21 respectively."</p> <p>11 So the County Council, two years after</p> <p>12 this plan was adopted, clearly interpreted it</p> <p>13 to be W-2, S-2.</p> <p>14 In connection with debates around that</p> <p>15 same time, opponents of the project</p> <p>16 communicated with MDE, and they argued that</p> <p>17 there's no service designation allocated to the</p> <p>18 property, not S-1 or otherwise. In other</p> <p>19 words, they argued the same arguments you're</p> <p>20 hearing today. That the figure 24 should be</p> <p>21 disregarded.</p>	<p>1 area is unprogrammed.</p> <p>2 The other thing that has been suggested is</p> <p>3 that the County Council's treatment of the Howe</p> <p>4 Point Road properties is somehow indicative of</p> <p>5 this issue. And I don't think it is because</p> <p>6 the Howe Point properties are in the existing,</p> <p>7 what was then the existing town's service area.</p> <p>8 So those properties were covered by figure 24.</p> <p>9 That was the existing town service area.</p> <p>10 They're not in the White Marsh district.</p> <p>11 They're not in the Trappe East district.</p> <p>12 I think the Council's adoption of an</p> <p>13 amendment to change their sewer service</p> <p>14 designation is entirely consistent with the</p> <p>15 long-standing county interpretation and MDE</p> <p>16 interpretation of the plan.</p> <p>17 And the last thing I'd like to just note</p> <p>18 about the correction of the mapping issue,</p> <p>19 mapping errors in 281. We're happy to</p> <p>20 cooperate, and I don't think there's anything</p> <p>21 necessary from the developer because it doesn't</p>
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<p>1 MDE responded in 2004 and said Trappe East</p> <p>2 was included in the Talbot County 2002 water</p> <p>3 and sewer plan and mapped as an S-2 service</p> <p>4 area, see attached figure 24 entitled Talbot</p> <p>5 County Town of Trappe long-range planning sewer</p> <p>6 service area, closed quote.</p> <p>7 So MDE expressed its interpretation to the</p> <p>8 county 18 years ago. That letter from Dr. Tien</p> <p>9 at MDE was addressed directly to the County</p> <p>10 Council and copies were sent to the county</p> <p>11 attorney, to Mr. Clarke, and to the Talbot</p> <p>12 County Public Works Advisory Board.</p> <p>13 Nobody, none of those recipients spoke up</p> <p>14 and said wait, we interpret it differently, we</p> <p>15 think it's unprogrammed.</p> <p>16 The county received notice of that</p> <p>17 interpretation, consistent with their</p> <p>18 interpretation, and accepted it.</p> <p>19 So I just want you to understand there's</p> <p>20 more context here than just saying if you look</p> <p>21 at this map and interpret it a certain way, the</p>	<p>1 involve our properties. But to the extent we</p> <p>2 can do anything to support the County's</p> <p>3 efforts, we're happy to do that.</p> <p>4 The example that Mr. Clarke provided in</p> <p>5 Easton where the county adopted the 2002 report</p> <p>6 of the review and a property was omitted, I</p> <p>7 think it's appropriate that that get corrected</p> <p>8 by a resolution because the county adopted maps</p> <p>9 wholesale, a change was necessary, and that</p> <p>10 change is implemented through an amendment.</p> <p>11 I think we have a different circumstance</p> <p>12 here. And so I would suggest the county, in</p> <p>13 the interest of seeing that corrected as</p> <p>14 efficiently as possible, in this case the</p> <p>15 county adopted a resolution that specifically</p> <p>16 described what you intended to change. And it</p> <p>17 just so happened that the maps that were</p> <p>18 attached to it had some clerical inclusions or</p> <p>19 exclusions.</p> <p>20 I don't think the county needs to adopt a</p> <p>21 new resolution to fix those. I think those are</p>

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<p>1 clerical errors. The intent can be discerned 2 from the text of the resolution. And I believe 3 that the county probably can submit new maps to 4 MDE identifying that error without putting 5 yourself through the process of a normal 6 amendment.</p> <p>7 But just share that. And with that, I 8 will conclude my comments unless there are any 9 questions.</p> <p>10 MR. CALLAHAN: Thank you, Mr. Showalter. 11 So Council, let's go around the table 12 here.</p> <p>13 Mr. Leshner, you're back with us; are you?</p> <p>14 MR. LESHER: I am. And I apologize for 15 being out. I think I lost eight minutes. But 16 I'll be able to go back and review the missing 17 information.</p> <p>18 I do want to thank everyone for their 19 participation here tonight.</p> <p>20 And it will take some time for me to 21 digest some of this information, but I</p>	<p>1 And I think Mr. Clarke pointed out that 2 there was even a mapping mistake with the Town 3 of Easton. So they happen, they happen. 4 People are human and they make mistakes. But 5 those mistakes should not be interpreted as 6 someone trying to do something nefarious. And 7 I think that's what we need to get beyond. 8 That's what we need to get beyond, is trying to 9 say something that was a mistake was done for 10 any other reason than just a human being making 11 a mistake.</p> <p>12 So I do appreciate the time people gave to 13 this.</p> <p>14 Again, I do apologize having stepped away. 15 I will listen to it at a later date and catch 16 up on anything that I missed. Okay? Thanks.</p> <p>17 MR. CALLAHAN: Thank you, Mr. Pack. I 18 appreciate you spending time with us tonight 19 and being able to do the best you can to be 20 here. That's for sure.</p> <p>21 So Mr. Divilio.</p>
<p>Page 123</p> <p>1 appreciate the involvement of all present here. 2 Thank you.</p> <p>3 MR. CALLAHAN: Thank you, Mr. Leshner. 4 Mr. Pack, are you still with us?</p> <p>5 MR. PACK: Yes, I am. And I, too, 6 apologize. I had to step away to take care of 7 another matter. I'll listen, as Mr. Leshner 8 said, to the full discussion at a later date.</p> <p>9 But yeah. Look, I want to thank everybody 10 who participated this evening from the Town of 11 Trappe, Mr. Showalter, staff members for the 12 county.</p> <p>13 And hopefully those who have had questions 14 had those questions answered tonight.</p> <p>15 Mapping errors, they're mistakes. There's 16 nothing nefarious about those mistakes. They 17 were internal mapping mistakes. And we'll 18 correct them. But it wasn't that anyone from 19 staff was trying to mislead or be complicit in 20 a cover-up. They were mapping mistakes and they 21 do occur.</p>	<p>Page 125</p> <p>1 MR. DIVILIO: I also had technical issues 2 and I don't need to say I apologize. I will 3 say that you guys are welcome for not having to 4 see my picture while I sat through it. But I 5 was on the phone the whole time.</p> <p>6 MR. CALLAHAN: I got you. That's good.</p> <p>7 MR. DIVILIO: I had asked to do this back 8 in the beginning before the rescinding 281 was 9 a discussion piece. And I appreciate everybody 10 coming to the table for this discussion. And I 11 apologize for taking everyone's time tonight.</p> <p>12 This is a big project. And I have the 13 benefit of knowing these individuals, who the 14 players are involved, and being able to reach 15 out to them using my County Council name and 16 title and get the answers that I want.</p> <p>17 And the public is not able to get that. 18 And I understand that. As well as it takes a 19 tremendous amount of time and resources for the 20 public to continue to answer -- ask these 21 questions to the Town of Trappe, to our</p>

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1 Planning Commission, to even Public Works
 2 Advisory Board, to all the different people who
 3 have voted on this or had a decision to make.
 4 And I understand it's not possible for that
 5 communication to happen with the public.
 6 So I appreciate everybody coming on
 7 tonight to confirm the steps that you took,
 8 what role you had, and clarify that role to the
 9 public to put a lot of this fear mongering to
 10 bed. I've had enough with it really.
 11 I'm going to say the one thing that I have
 12 not heard tonight. I look forward to this
 13 project. I believe that this is the correct
 14 direction for Talbot County to go.
 15 I don't believe that Trappe should have
 16 two pristine, top-of-the-line wastewater
 17 treatment facilities when there's other
 18 facilities in the county that are failing. And
 19 I will continue to work on that.
 20 I will continue to also work on the other
 21 problems that have been brought to my attention

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1 throughout the county with other sewer
 2 problems.
 3 I don't believe that Easton should
 4 continue to grow. I think at some point Easton
 5 will grow all the way to Caroline County if we
 6 let it, and I don't think that that is
 7 beneficial when we've already had complaints
 8 about Easton Elementary School being such a
 9 large school.
 10 I think it's now time for the county to
 11 divide a little bit and let the growth go to a
 12 new town.
 13 I look forward to Trappe, the time when a
 14 restaurant is renewing leases in there, when
 15 there's a grocery store again, when they're
 16 able to stand on their own. I think that will
 17 benefit all of us. And I plan to do that with
 18 the best technology and the best monitoring to
 19 make sure that that technology is putting out
 20 the cleanest water into our bays and
 21 maintaining our water systems around.

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1 So I see everybody in this as part of a
 2 plan to move the county forward in a safe way
 3 with a lot of planning.
 4 And I say that without knowing the
 5 developer. Maybe they want all pastel homes
 6 that are in the South Carolina style, and I'm
 7 not a fan of that here. And that's when Trappe
 8 steps in and tells them what they can do. And
 9 we need to enable Trappe and let them get to
 10 that point. And that's where I am.
 11 So again, I thank everyone for their time
 12 answering my questions over and over again,
 13 answering these questions to the public. And I
 14 hope that we're to a point where we can move
 15 forward.
 16 Thank you.
 17 MR. CALLAHAN: Thank you, Mr. Divilio.
 18 And I will sort of wrap things up, too,
 19 and say that I can't thank all the parties here
 20 tonight being here.
 21 I know a couple of weeks ago when we had a

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1 meeting and it got heated, and I apologize for
 2 some of the way that Council sort of acted on
 3 this.
 4 But it was really important for us to do
 5 this tonight for the public, for the safety of
 6 the project, just to help everybody understand
 7 to get here.
 8 And like I said, I apologize for putting
 9 this thing on hold and making everybody be here
 10 at the table, but I felt that was my job. It
 11 was my job to get everybody here, answer the
 12 questions in the last four to five months, and
 13 get everybody comfortable, everybody talking.
 14 And hopefully everybody is coming away
 15 from here and feeling very positive about what
 16 Mr. Divilio said about having the
 17 state-of-the-art community. That's what we
 18 want to be. We want to be successful. We want
 19 Trappe to be successful. We want to be proud
 20 of Trappe. And there's things that we need to
 21 support them on.

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1 So I'm looking forward in the next week to
 2 ten days to get with the Planning Commission so
 3 we can discuss this information that we've
 4 heard tonight.
 5 I want to thank Lyndsey and Trappe and
 6 Ryan for, you know, being prepared for this
 7 because everybody was put on hold and was
 8 prepared tonight. So you guys did a phenomenal
 9 job, everybody here. Staff did a phenomenal
 10 job.
 11 Ray, I know you had a lot on your
 12 shoulders, and you've done the right thing.
 13 And hey, you know, in the last 20 years, the
 14 county probably has made a little mistake here
 15 and there. But like Mr. Pack said, we're only
 16 human. That's why we're here understanding
 17 what the mistakes were and how to fix it. So
 18 nothing intentional here.
 19 Let's move on, support the community, and
 20 do the best that we can as Council, as Council.
 21 So I think, I'm probably going to leave

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1 it -- Mr. Stamp, do you have anything for us?
 2 MR. STAMP: No, sir. A lot of good
 3 information and a lot of good information
 4 shared. That's important. Thank you.
 5 MR. CALLAHAN: Thank you. Ms. Morris,
 6 that's my boss. Okay. Ms. Morris.
 7 MS. MORRIS: No. It was a good meeting.
 8 Appreciate everybody being in attendance
 9 tonight.
 10 MR. CALLAHAN: Thanks a lot. I want to
 11 thank staff for preparing staff for all this.
 12 Patrick, do you have any closing words?
 13 MR. THOMAS: No, I do not. Thank you.
 14 MR. CALLAHAN: Well, thanks a lot on our
 15 end with staff on preparing us, Council, and
 16 all the hard work. You've been trying to
 17 answer e-mails and stuff. And I'm going to end
 18 it, everybody is welcome to send us an e-mail
 19 and we'll go from there.
 20 So other than that, everybody have a great
 21 evening and I really appreciate everything.

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1 (Work Session concluded at: 7:11 p.m.)
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1 STATE OF MARYLAND
 2 I, Diane Houlihan, a Notary Public in and
 3 for the State of Maryland, County of Baltimore City,
 4 do hereby certify that the within named, Talbot
 5 County Council Audio, personally appeared before me
 6 at the time and place herein set according to law,
 7 was interrogated by counsel.
 8
 9 I further certify that the examination was
 10 recorded stenographically by me and then transcribed
 11 from my stenographic notes to the within printed
 12 matter by means of computer-assisted transcription
 13 in a true and accurate manner.
 14
 15 I further certify that the stipulations
 16 contained herein were entered into by counsel in my
 17 presence.
 18
 19 I further certify that I am not of counsel
 20 to any of the parties, not an employee of counsel,
 21 nor related to any of the parties, nor in any way
 interested in the outcome of this action.
 AS WITNESS my hand Notorial Seal this 15th
 day of February, 2022 in Talbot County, Maryland



Diane Houlihan
Notary Public

My commission expires September 16, 2025

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