

CITY OF SALISBURY
WORK SESSION
FEBRUARY 4, 2019

Public Officials Present

Council President John R. “Jack” Heath
Council Vice President Muir Boda
Councilwoman April Jackson

Mayor Jacob R. Day (arr. 5:07 p.m.)
Councilman James Ireton, Jr.

In Attendance

City Administrator Julia Glanz, Deputy City Administrator Andy Kitzrow, Department of Field Operations Traffic Superintendent Bill Sterling, City Clerk Kim Nichols, City Attorney Mark Tilghman, interested citizens and members of the press.

On February 4, 2019 Salisbury City Council convened in a Work Session at 4:30 p.m. in Council Chambers, Room 301 of the Government Office Building. The following is a synopsis of the topics discussed in the Work Session.

501 W. Isabella Street Property Acquisition

Traffic Superintendent Bill Sterling joined Council at the table and reported Field Operations was early in the process of attempting to purchase the entire block of Isabella Street, Mack Avenue, Lake Street and Delaware Avenue to meet the future growth needs of the City of Salisbury Department of Field Operations headquarters, located at 500 Mack Avenue. The purchase of 501 W. Isabella (at the corner of Lake and Isabella Streets) would finish the block.

Mr. Sterling provided the following summary of the long range plan for Field Operations: The City, in the CIP, has a multi-million dollar plan to re-build an administrative building, relocating the Utility Service Center (next to the river) to Field Operations, discontinue use of the parking area on the east side of Lake Street to eventually be a playground, and try to reach an agreement with the church to utilize a coop for parking on the north side of Mack Avenue.

Council reached unanimous consensus to advance the purchase to legislative agenda.

Revisions to Zoo Commission Bylaws

Zoo Director Ralph Piland joined Council to discuss the bylaw changes. He reported they were being amended to reflect the past changes in the organizational structure of the City to remove references to the Public Works Department and to replace with Field Operations. Another change was to strike the requirement that the Zoo Commission maintain an inventory of the animal collection annually. He explained with the Zoo’s current record keeping system they maintain the inventory through the Zoo operations and staff, and can produce an inventory at any time.

Council reached unanimous consensus to advance the legislation to legislative agenda.

927 Johnson Road Annexation

Building Official Bill Holland reported the City recently received a petition for annexation from Dirk Widdowson, and was requesting permission to move on to the next step. The annexation consists of approximately 1 ¾ acre and is located on the northerly quadrant of Johnson Road, and the rear property line is contiguous to the Shoemaker Manor Development. He said the property currently has two dwelling units, one of which has a failed septic system, and the other has a cesspool, which needs to be cleaned up. The next step would be to the Planning Commission to rezone the property, and then the annexation agreement would be brought before City Council. Mr. Holland said there was no concept plan right now, and it should be a simple annexation.

Council reached unanimous consensus to advance the annexation to the Planning Commission.

US 13 North PennTex Phase II Annexation

Infrastructure and Development Director Amanda Pollack, joined by the PennTex team to discuss the PennTex Phase II Annexation. She reported they came before Council in January and received many questions. They discussed the overall site layout, why the buildings were positioned where they were vs. the parking lot, runoff, traffic, trees and lighting issues.

Jeff Harmon with Becker Morgan Group showed the rendered sight plan to give an idea of how the proposed site will appear. Minor modifications were made, as Mr. Harmon reported below:

Building Placement- Mr. Harmon explained PennTex has been involved in many negotiations with the tenants. What is best from an engineering, noise, light, and aesthetics standpoint, the buildings do well placed on the pond side. The mass of the buildings serve as a blockage to light, noise, visual to the parking lot, and good visibility.

Landscaping- Many trees along the pond bank will stay, and the existing slope from the yards will remain currently as is. They will remove dead branches and fallen trees, and look at adding natural, native plantings to make the bank attractive across the pond.

Drive-thru- There is a continuous hedge planned to provide a dense planting to provide a barrier to screen the drive-thru lane, order board and parking lot between the two buildings. The site is elevated about ten feet above the pond, and when shrubs are placed and grown a bit, there will be no visibility from the pond.

Landscaping- Along the southern edge of the property there is an overgrown ditch which collects litter and trash. It will be closed with a drainage pipe and new trees planted along the edge to screen Aldi from the restaurant parking lots.

Betty Tustin from The Traffic Group discussed the connectivity to and from the restaurants and Aldi, which is the preferred system. There are several outlets available and the current plan works well. During the morning peak hour, there will be a que. State Highway can make modifications with the timing of the traffic signal to give Dagsboro Road more time to clear out.

Mr. Harmon explained Ripieno's, the new fine dining restaurant, will have a late dining and late evening dinner crowd. The upscale, fast-casual restaurant, located on the upper lot by the highway will mainly serve breakfast and lunch, so there will be a balance of traffic. He showed on the rendering where the surface water would flow away from the pond towards the collection system to the underground storage area, being the same approved for Aldi. A vac truck will clean the debris to keep it from entering the pond.

Councilman Ireton discussed the drive-thru on the upscale, fast-casual restaurant being placed on waterfront property. Mr. Harmon explained the intention was for the residents to not know the drive-thru was there, which was why the landscape screen, preservation of existing trees, and enhancement of the existing pond bank with additional plantings was done. Once they are done with the landscaping plan, the drive-thru will not be seen. Ripieno's will engage the pond, but because of the type of restaurant it will be, the clientele will want a quiet dinner and no band or bar. Its architecture will be attractive with a patio, walkway, bulkhead and small dock.

Councilman Ireton asked about the parking for Ripieno's, and staff said it would be in front and along the edge. Since there will be two separate parcels, each will have their own parking, but it will also have a shared, cross access agreement. If one is very busy and needs spaces on the other side, they can use the spaces. Once they are open, Mr. Ireton discussed the need to take corrective action and recourse through the code and Commission if the outcome is not as expected.

President Heath made sure the residents present had seen the changes and asked if they had additional questions. He invited the public forward to the podium to speak, and the following is a synopsis of the comments received:

- Resident lives directly across from the annexation and said there was a road going to the pond. The area between the fast food restaurant is apparently open for the window. Asked if that was the road, or were they leaving the road access and moving over some more for the lane for the window? Staff explained the existing driveway going back to the home at the rear is about where the top of the bank is now. The drive-thru lane is further away from the pond and where the road is now, because they need six or eight feet. It is moved away from the pond some so that there is adequate planting room for the screen.
- Resident asked about plantings at the back restaurant.
- Resident asked if there was going to be piped music outside. Tranquility was the goal, so there would be no band, but possibly a speaker or violinist.
- How late will the deck be used? (Probably no later than 10:00 p.m. or 11:00 p.m.)
- Resident is worried about how she gets out of the neighborhood because the exiting traffic will not be able to move until the light changes, and depending on the number of cars exiting, she will not be able to exit her neighborhood.
- Resident asked if the deck will be connected to the restaurant, and it will be. Discussed the 25' setback and agreed the deck will be more of a boardwalk.
- Asked what wall would look like facing the pond on the upscale, fast-casual restaurant, and was told there were no windows and attractive finishes. There are limited windows facing the Ripieno's, a drive-thru window and a singular window on the wall facing towards Rt. 13. All of the windows are on the main wall.

- Discussed the HVAC and venting placement.
- The tree line is thick in the southern corner of the second restaurant, but it thins coming up to the highway. Suggested in the landscape plan that a lot of work be done to protect Mallard Drive and those neighborhoods, because it is visible from the other side of the pond. Was told that they would maintain the trees there, remove invasive species and place naturalized plantings to enhance the buffer. It will not be mowed down, but what should be removed will be taken out.
- Discussed Aldi's pipe system and how it will connect into the restaurant's same line.
- On Aldi's property, there are islands and bio retentions, and when it rained the mulch came down. He thought it should be some sort of vertical plantings instead of pansies and daisies (low-grade plantings). It has to be attended to quite often and has no visual appeal.
- The Comprehensive (Comp) Plan has statements such as, "If there is vegetation 1" or larger, than no more than X% of trees or vegetation with diameters of an inch or bigger will be removed." That can be amended through the Commission. Concerned that if the Comp Plan states the general intention and purpose, if there is an "out", that "out" does not give latitude to disregard it. This, from a City/County perspective needs addressing.
- Please make this project pleasant and quiet for the residents.
- Asked what would be done to lessen the impact of increased lighting. Staff said the building will help block the parking lot lighting, and dark-sky compliance fixtures that have cut-offs to direct light downwards will be used in conjunction with abiding by the City's minimum required lighting levels. Since the parking is not adjacent to the pond and they are keeping the existing trees and enhancing with additional plantings, all will block the parking lot lighting. Will also utilize the lowest height fixture that will still give the illumination levels required for parking lots. The parcel is about 10 feet higher than the pond, and when looking across the pond at the building, the site line goes up in the sky. The tops of the lights will likely be unseen.

After discussion, Council reached unanimous consensus for the annexation to advance to the Planning Commission.

Pemberton Payment in Lieu of Taxes (PILOT) Discussion

Deputy City Administrator Andy Kitzrow, joined by Tryko Partners Regional Asset Manager Moe Krohn, passed out the draft resolution to provide for a PILOT to Pemberton Manor, LLC. He said the goal was for Pemberton Manor LLC to perform some renovations to Pemberton Manor, and instead of them paying taxes for the next 20 years, they would have the payment plan, which he also handed out. Draft resolution, PILOT agreement, and payment plan are included as part of these minutes. He said the agreement has been reviewed and vetted by Administration, and he pointed out the proposed improvements consisting of renovations to the kitchens and bathrooms, landscaping, larger children's play spaces, and a comprehensive security system.

Mr. Krohn reported Pemberton Manor, built in 1974, consists of 209 units of which 143 are designated affordable, and 66 are conventional. The property went into HUD foreclosure in 2011. There were management issues, crime issues and the occupancy was at 66%. In 2012,

Tryko Partners acquired the property and invested significantly in the past few years, and have created the feeling of community on the property and in the neighborhood. He discussed the daily and weekly programs they have created including an after school with homework and tutoring assistance and food, summertime breakfast and lunch program, creation of a small library, weekly etiquette training with the Wicomico County Health Department, some college prep classes, the back to school event, among others. He discussed the proposed HD exterior camera system they would like to install, of which individual camera placement was reviewed and signed off by the local deputies and Police Chief Duncan. They are also adding cameras inside the buildings, and is remotely accessed by the Police Department and management. He discussed the improvements planned for the kitchens and bathrooms, new landscaping, signage, removing fencing at the entrance walkways to create more walking environment, and two Tot Lots (playgrounds for children under the age of 6). Mr. Krohn said they would spend over a million dollars with a completion goal of three years after their start date. They will continue to make tax payments, starting at \$18,000 per year and increasing 5% per year for twenty years.

Mr. Boda wondered about 4th Amendment issues regarding the cameras, and Mayor Day said it has become normal at construction, and usually an IP Address is given directly to Salisbury Police Department. They discussed the signage to make the public aware of the cameras.

Council reached unanimous consensus to advance the PILOT legislation to legislative session.

Motion to Convene in Closed Session

At 6:00 p.m., Mr. Heath called for a motion to convene in Closed Session to discuss the appointment or assignment of a person(s) over whom the public body has jurisdiction as permitted under the Annotated Code of Maryland §3-305(b)(1). Mr. Boda moved, Ms. Jackson seconded, and the vote was unanimous to convene in Closed Session.

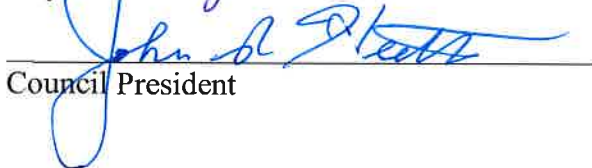
Motion to end Closed Session / Reconvene in Open Session / Report to Public

At 7:45 p.m., upon a motion and seconded by Mr. Boda and Mr. Ireton, respectively, the vote was unanimous to end the Closed Session. Council convened in Open Session and President Heath reported to the Public that Council had interviewed candidates for the District 5 Council vacancy.

The Open Session was then adjourned.



City Clerk



Council President

Pemberton Manor PILOT Payments- Schedule A

<u>Year</u>	<u>Payments</u>
Year 1	\$18,000.00
Year 2	\$18,270.00
Year 3	\$18,544.05
Year 4	\$18,822.21
Year 5	\$19,104.54
Year 6	\$19,391.11
Year 7	\$19,681.98
Year 8	\$19,977.21
Year 9	\$20,276.87
Year 10	\$20,581.02
Year 11	\$20,889.73
Year 12	\$21,203.08
Year 13	\$21,521.13
Year 14	\$21,843.94
Year 15	\$22,171.60
Year 16	\$22,504.18
Year 17	\$22,841.74
Year 18	\$23,184.37
Year 19	\$23,532.13
Year 20	\$23,885.11

1 A RESOLUTION OF THE CITY OF SALISBURY, MARYLAND PROVIDING A
2 PAYMENT IN LIEU OF TAXES (PILOT) TO THE DEVELOPMENT OF PEMBERTON
3 MANOR, LLC LOCATED AT 1017 FAIRGROUND DRIVE, SALISBURY, MARYLAND
4 21801.
5

6 WHEREAS, The City Council of the City of Salisbury, Maryland recognizes that there is
7 a significant need for quality housing units in Salisbury for persons with low to moderate incomes;
8 and
9

10 WHEREAS, Pemberton Manor, LLC or its assignee, a Maryland limited liability
11 corporation, currently owns and maintains a rental housing development comprised of
12 approximately two hundred nine (209) units, known as Pemberton Manor, located at 1017
13 Fairground Drive in Salisbury, MD (the "Project"), of which one hundred forty-three (143) units
14 will assist persons of lower income as required by applicable law or regulations ("HUD units");
15 and
16

17 WHEREAS, Pemberton Manor, LLC proposes to renovate all of the HUD units at this
18 rental housing development, make improvements to the landscaping, entrance and fencing of the
19 Project, install security cameras on the Land, and to renovate the non-HUD units as well; and
20

21 ~~WHEREAS, Pemberton Manor, LLC, has advised the City that financing from the~~
22 ~~Maryland Department of Housing and Community Development (the "Department") Low Income~~
23 ~~Housing Tax Credit (the "LIHTC") Program warrants a contribution to the project in the form of a~~
24 ~~payment in lieu of taxes (PILOT); and~~
25

26 WHEREAS, the City of Salisbury supports this project because it will continue to address
27 the need for quality, affordable housing for persons with lower incomes; and
28

29 WHEREAS, The City of Salisbury desires to provide for a Payment in Lieu of Taxes (the
30 "PILOT").
31

32 BE IT HEREBY RESOLVED THAT the City of Salisbury approves a PILOT agreement
33 between Pemberton Manor, LLC or its assignee and the City of Salisbury, attached hereto,
34 provided Pemberton Manor, LLC renovates, maintains, and operates the rental housing project at
35 1017 Fairground Drive for persons with low to moderate income in accordance with the guidelines
36 of the Department ~~of Housing and the LIHTC~~ Urban Development's restrictive use covenants. The
37 PILOT agreement provides for a reduction of the City of Salisbury real estate taxes to the amount
38 of \$18,000 per year with an annual increase of 1.5% beginning in the second PILOT Tax Year if
39 the project continues to provide affordable housing for persons of lower income for a period of ~~up~~
40 ~~to twenty (20) years, so long as such affordability restrictions are maintained,~~ from the date the
41 ~~building PILOT's first payment is granted a certificate of occupancy due;~~ and
42

43 BE IT FURTHER RESOLVED THAT, the Mayor be granted the authority to execute
44 said Payment in Lieu of Taxes agreement, which is hereby attached to this resolution, on behalf of
45 the City of Salisbury; and
46

47 THIS RESOLUTION was introduced and duly passed at a meeting of the Council of the
48 City of Salisbury, Maryland held on _____, 2018 and is to become effective upon
49 adoption.
50

51 ATTEST
52
53
54

55 _____
56 Kimberly R. Nichols
57 City Clerk

John R. Heath
President, City Council

58

59 APPROVED by me this _____ day of _____, 2018

60

61

62

63

Jacob R. Day

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MAYOR, City of Salisbury

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APPROVED by me this _____ day of _____, 2018

Jacob R. Day
MAYOR, City of Salisbury

PAYMENT IN LIEU OF TAX AGREEMENT

THIS AGREEMENT FOR PAYMENTS IN LIEU OF REAL PROPERTY TAXES (the "Agreement" is made as of _____, 2018, by and between PEMBERTON MANOR LLC (hereinafter referred to as the "Owner"), and CITY OF SALISBURY, MARYLAND, a body corporate and politic of the State of Maryland (hereinafter referred to as the "City").

RECITALS

WHEREAS, the Owner owns that certain tract of real property located at 1017 Fairground Drive, Salisbury, Maryland 21801 that is more particularly described on Exhibit A attached hereto and made a part hereof, and intends to make renovations to all units of the 209 unit rental apartment complex which includes 143 units for persons of lower to moderate incomes ("HUD Units"), known as Pemberton Manor (the "Project"); and

WHEREAS, Section 7-506.1 of the Tax-Property Article of the Annotated Code of Maryland (2012 Replacement Volume, as amended) (the "Code") provides, among other things, that real property outside of Baltimore City may be exempt from county and municipal corporation property tax if: (i) the real property is owned by a person engaged in constructing or operating housing structures or projects; (ii) the real property is used for a housing structure or project that is operated under a federal, State or local government program that funds construction, or insures its financing, or provides interest subsidy, rent subsidy or rent supplements; (iii) the owners thereof enter into an agreement with the governing body of the county and, where applicable, the municipal corporation where the real property is located agree to the payment of a negotiated sum or sums in lieu of the applicable county or municipal corporation real property tax; and (iv) the owner of the real property agrees to continue to maintain the real property as rental housing for lower income persons under the requirements of the government program described herein and agrees to renew any annual contributions contract or other agreement for rental subsidy or supplement, or the owner of the real property enters into an agreement with the governing body of the county or municipal corporation to allow the entire property or the portion of the property which was maintained for lower income persons to remain as housing for lower income persons for a term of at least 5 years; and

WHEREAS, the Owner is engaged in the business of operating housing structures or projects; and

WHEREAS, the Project is a housing structure or project that will be operated in whole or in part within the meaning of Section 7-506.1 of the Code because HUD provides rent subsidy for units at the Project; and

WHEREAS, as part of the PILOT Agreement, Pemberton will covenant and agree, in accordance with the terms and conditions of Section 7-506.1(a)(2)(iv)(2) of the Code, that it or its successors or assigns will operate units at the Project as housing for lower to moderate income persons for a term of at least 5 years from and after the Date of Resolution

of the Project; and

WHEREAS, the Project meets the requirements and criteria of Section 7-506.1 of the Code; and

WHEREAS, the City is duly authorized and empowered to enter into and deliver this Agreement pursuant to the City Resolution (herein defined); and

WHEREAS, pursuant to and in accordance with Section 7-506.1 of the Maryland Property Tax Article and the City Resolution, the City, acknowledging and agreeing that the Project to be operated by the Owner meets the requirements and criteria of Section 7-506.1 of the Maryland Property Tax Article, wishes to enter into this Agreement to accept certain negotiated payments in lieu of city real property taxes so as to facilitate the renovation of the HUD Units at the Project and thereby make available to citizens of the City much needed improved housing for persons of lower to moderate incomes.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, that for and in consideration of the mutual covenants, terms and agreements set forth in this Agreement and pursuant to the power and authority of Section 7-506.1 of the Maryland Property Tax Article and the City Resolution, the City and the Owner hereby agree as follows:

1. Definitions. The following defined terms, when and as used in this Agreement, shall have the meanings herein ascribed to them:

(a) "City Resolution" means Resolution No. _____ adopted by the City Council on _____, 2018, and approved by the Mayor of Salisbury on _____, 2018.

(b) "City Real Property Taxes" means the real property taxes that but for this Agreement would be payable by the Owner to the City with respect to the Project for each Tax Year falling within the Term.

(c) "Cumulative Available Savings" means the Maximum Cumulative Savings less the Cumulative Savings.

(d) "Cumulative Savings" means the difference between the tax payments due in Schedule A and the regular tax based on the current assessment and tax rates for all years since the inception of the PILOT.

(e) "Date of Resolution" means the date as of which the City Resolution takes effect.

(f) "HUD Units" means the 143 units at the Project designated for Low to Moderate Income individuals as set forth in the HUD contract for the Project.

(g) "Land" means that certain tract of real property, comprising approximately 16 acres, in the aggregate, located at 1017 Fairground Drive, Salisbury, Maryland 21801. The Land is

more particularly described in Exhibit A.

(h) "Low to Moderate Income" means incomes as set forth in the HUD contract for the Project.

(i) "Maryland Property Tax Article" means the Tax-Property Article of the Annotated Code of Maryland (2012 Replacement Volume, 2017 Supp.), as the same is amended or supplemented from time to time.

(j) "Maximum Cumulative Savings" means fifty percent (50%) of the cost of the improvements made.

(k) "Payment" means each payment required to be paid by the Owner in lieu of City Real Property Taxes, as set forth in Section 4 of this Agreement.

(l) "Project" means, collectively, the Land and that certain 209-unit housing project, owned by the Owner known as Pemberton Manor, as the same may be renovated, rehabilitated, reconstructed or expanded from time to time.

(m) "Section 7-506.1" means Section 7-506.1 of the Maryland Property Tax Article.

(n) "State" means the State of Maryland.

(o) "PILOT Tax Year" means each one (1) year period commencing on July 1st and ending on June 31st falling within the Term.

(p) "Term" means that period of time commencing on the Date of Resolution and ending on that date which is the day before the twenty first (21st) anniversary of the Date of Resolution.

2. Representations and Warranties by the Owner. The Owner hereby represents and warrants that:

(a) it is engaged in the business of operating housing structures or projects, within the meaning of Section 7-506.1;

(b) the Project is a housing structure or project has a housing and Urban Development contract to receive rent subsidy; and

(c) all necessary action has been taken to authorize the execution of this Agreement by the individual whose signature appears below.

3. Agreements of the Owner.

(a) The Owner hereby covenants and agrees that it will operate the HUD Units at the Project as housing for persons with lower incomes throughout the Term. It is expressly understood that the covenant and agreement of Owner contained in this Section 3 to operate the HUD Units at the Project as housing for persons with lower incomes throughout the Term, as well as all other covenants and agreements of Owner contained in this Agreement, shall be binding on all successors and assigns of Owner in accordance with Section 12 of this Agreement whether the Agreement is recorded or not recorded.

(b) Owner shall abide by the timelines for commencement and completion of the HUD Unit renovations at the Project as set forth below:

- i. Owner shall commence the renovations to the HUD Units at the Project within 90 days (the "Renovation Commencement Date") after Housing and Urban Development's ("HUD") approval of Owner's application to the HUD Community Preservation Program.
- ii. Owner shall complete renovations to at least 15 of the total HUD Units at the Project within 180 days after the Renovation Commencement Date.
- iii. Owner shall complete renovations to at least 50 of the total HUD Units at the Project within 360 days after the Renovation Commencement Date.
- iv. Owner shall complete renovations to at least 100 of the total HUD Units at the Project within 540 days after the Renovation Commencement Date.
- v. Owner shall complete renovations to all 143 HUD Units at the Project within 720 days after the Renovation Commencement Date.
- vi. Owner shall complete renovation of all bathrooms and kitchens throughout the entire development that are not HUD units within 1080 days after the Renovation Commencement Date.

(c) Owner shall install a new camera system at the Project with remote access capability and historical archive, which shall be in substantial conformity with the Camera System plan attached hereto as Exhibit___ and which will allow videos to be shared with the Salisbury Police Department. Said security system shall be installed throughout the entire Land in sufficient numbers to be able to capture video covering the substantial majority of the exterior of the entire Land. (Need the Exhibit)

(d) Owner shall erect a fence enclosure around its trash pad at the entrance of the Project.

(e) Owner shall beautify the entrance to the Project from Parsons Road by removing the fence across the sidewalk, and installing high quality landscaping.

(f) Owner shall construct two young children's play areas on the Land for young children to play (ages 1-4 years). Play areas should be large enough to adequately service children from all of the buildings.

(g) Owner shall provide the City with the total cost of renovations, both before, through detailed estimates, and upon completion of work and Owner shall also provide

proof to the City that Owner is making an out of pocket equity investment into improvements being made at the property not including federal, State, or local tax, grant, etc. savings. Owner shall provide the City documents that it reasonably requests to enable the City to make a decision that the requirements of this subsection have been met.

4. Payments in Lieu of Real Property Taxes.

(a) The Project shall be exempt from all City Real Property Taxes at all times during the Term provided the requirements of subsection (a) of Section 7-506.1 have been met. Each Payment shall be paid by the Owner and accepted by the City in lieu of all City Real Property Taxes that would otherwise have been payable by the Owner with respect to the Project for the applicable PILOT Tax Year.

(b) Except as provided in Sections 4(c) and (e), the total amount required to be paid by the Owner to the City during the Term, for and with respect to each PILOT Tax Year under this Agreement shall be Fifteen Thousand Dollars (\$18,000.00) per year plus an increase of one and one half percent (1.5%) per unit per year beginning in the second PILOT Tax Year following the Date of Resolution. This Agreement will terminate at year twenty (20) after the Date of Resolution. A schedule of the tax payment is attached as schedule A and incorporated herein (**need Schedule A)

i. For each tax year, the Cumulative Savings will be calculated. If in any year the Maximum Cumulative Savings would be exceeded with the tax payment in Exhibit A, this PILOT agreement shall terminate and the payment due that year shall be the regular tax payment based on the then current assessment and rate less the Cumulative Available Savings. After that year, no future PILOT savings will be available in future years and all future payments will be based on the then current assessments and tax rates.

(c) In the case of any PILOT Tax Year falling partly within the Term at the outset or conclusion thereof, the applicable Payment shall be prorated based upon the number of days in the Term falling within such PILOT Tax Year.

(d) The Payment required under Section 4(b) above for each PILOT Tax Year shall be due and payable on or before March 31st of the following PILOT Tax Year.

(e) Notwithstanding anything to the contrary set forth elsewhere in this Agreement, the Payment otherwise required to be paid by the Owner with respect to a PILOT Tax Year shall never exceed the City Real Property Taxes that would otherwise have been due and payable with respect to the Project for such PILOT Tax Year.

(f) For all periods of time prior to commencement of the Term, the Owner shall pay City Real Property Taxes with respect to the Project based upon the assessed value of the Land, as reflected in the real property tax records of the City as of the date of this Agreement, and the applicable real property taxes rates of the City in effect for such times.

(g) If any Payment is not paid by April 1st of the year immediately following the PILOT Tax Year for which the Payment is due, interest shall be payable thereon at the rate of ten percent (10%) per annum accruing as of the above-referenced dates until paid.

(h.) If the Owner is in default for one hundred eighty (180) days for any payment required under any of the provisions of this Agreement, the City may, at its option, declare a default by providing written notice of the default to the Owner and to the holders of all mortgages or deeds of trust. If within sixty (60) days of such notice, the payments have not been brought current, then the City may, at its option, declare all amounts due as follows: a sum equal to the total real property taxes which would have been due from the Owner in the absence of this Agreement, plus all interest, if any, less all amounts actually paid under this Agreement. To enforce its rights under this paragraph, the City may renegotiate this Agreement, foreclose, or seek any other remedy available at law or in equity. Notwithstanding anything to the contrary which is or might be contained in this agreement, payments due under this paragraph shall be considered a first lien against the Property and superior to any other liens placed upon the Property and may be collected in the same manner as City taxes.

5. Sale or Transfer of Project. In the event of the sale or other transfer of Owner's right, title and interest in and to the Project, which is expressly permitted hereunder, Owner shall be relieved of all obligations and liabilities under this Agreement accruing after the date of such sale or transfer, and the purchaser or transferee of Owner's right, title and interest in and to the Project shall automatically, without the execution of any further documentation, become responsible for all obligations and liabilities of Owner under this Agreement accruing from and after the date of such sale or transfer. Any subsequent sales or transfers shall likewise relieve the seller or transferor of all obligations and liabilities under this Agreement accruing from and after the date of sale or transfer, and the purchaser or transferee shall automatically become responsible therefor.

6. Term. This Agreement shall terminate at year twenty-one (21) after the Date of Resolution. The property shall be assessed and reassessed from time to time as though for purposes of City taxation according to the regular methods and practices applicable to other real property of a similar classification in the City of Salisbury.

7. Notices. For purposes of this Agreement, all notices shall be in writing and sent by United States certified or registered mail, postage prepaid, return receipt requested or overnight mail. Notices shall be given to the parties as follows:

IF TO THE CITY, THEN TO:

IF TO THE OWNER, THEN TO:

575 Route 70, 2nd Floor
Brick, NJ 08723
Attn: Legal Department

And to:

1017 Fairground Drive
Salisbury, Maryland, 21801
Attn: Pemberton Manor LLC

Any party to this Agreement may modify its address to which notice to it shall be sent, by delivery of notice to the other parties hereto in accordance with the foregoing. Each notice that is sent by one party to this Agreement in accordance with the foregoing shall be presumed to have been received on the three (3) business days after the date of mailing, unless sent via overnight mail in which case it will be presumed to be received on the next business day. Notwithstanding any provision to the contrary contained in this Agreement, any person or party not listed in this section shall not be entitled to notice as may be required by this Agreement, unless one party notifies the other parties that additional notice shall also be sent to such person or party.

8. Entire Agreement Headings. This Agreement contains the entire agreement of the parties to this Agreement with respect to the matters herein set forth. All other agreements and understandings of the parties to the Agreement, written or oral, if any, are merged into this Agreement. The headings set forth at the beginning of each of the sections of this Agreement are inserted for convenience of reference only and shall not be deemed to have any independent legal significance or meaning whatsoever.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland.

10. Assignment. This Agreement may be assigned to a holder of a mortgage or deed of trust in the event of a foreclosure under said mortgage or deed of trust, provided that such assignee shall be subject to the terms and conditions of this Agreement. This Agreement may also be assigned to any member controlled by Pemberton Manor LLC, the Managing Member of Pemberton Manor LLC or any subsequent owner of the Project, or transferee, or successor or assignee, upon written notice to the City. No consent by the City shall be required.

11. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns and run with the Project.

12. Recording. This Agreement may be recorded in the land records.

13. Recitals. The recitals set forth at the beginning of this Agreement shall be deemed to be a part of this Agreement.

IN WITNESS WHEREOF, the parties to this Agreement have duly executed this Agreement under seal on and as of the date first set forth above.

WITNESS/ATTEST:

Pemberton Manor LLC

CITY OF SALISBURY, MARYLAND

Approved as to legal sufficiency this

___ day of _____ 2018

City Attorney

STATE OF _____)
)§
COUNTY OF _____)

On this the ____ day of _____, 2017, before me, a Notary Public, personally appeared _____, who acknowledged himself to be the _____ of _____, and that he, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the _____ by himself as _____.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

STATE OF _____)
)§
COUNTY OF _____)

On this the ____ day of _____, 2017, before me, a Notary Public, personally appeared _____, who acknowledged himself to be the _____ of _____, and that he, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the _____ by himself as _____.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

PEMBERTON PILOT SUMMARY

Payment to the City

- 20 Year Total - \$416,226,
- Average Annual Payment \$20,811.30

Proposed Improvements

- Renovated kitchens and bathrooms.
 - The bathrooms will have new flooring, toilets, tub/surround, lighting and vanities
 - The kitchens will receive new flooring, cabinets, countertops, lighting and sinks.
- The landscape improvements will include beautification of the grounds such as new signage and flowerbeds at the entrance.
- Maintaining the shack as a means to monitor access.
- Two large playground / play space
- Comprehensive Security Camera Installation

Total Improvement Proposed Budget

- TBD