

Minutes of the County Commissioners of Worcester County, Maryland

February 16, 2016

Madison J. Bunting, Jr., President
Merrill W. Lockfaw, Jr., Vice President
Anthony W. Bertino, Jr.
James C. Church
Theodore J. Elder
Joseph M. Mitrecic
Diana Purnell

Following a motion by Commissioner Lockfaw, seconded by Commissioner Bertino, the Commissioners unanimously voted to meet in closed session at 9:00 a.m. in the Commissioners' Conference Room to discuss legal and personnel matters permitted under the provisions of Section 3-305(b)(1) and (7) of the General Provisions Article of the Annotated Code of Maryland and to perform administrative functions. Also present at the closed session were Harold L. Higgins, Chief Administrative Officer; Kelly Shannahan, Assistant Chief Administrative Officer; Maureen Howarth, County Attorney; Kim Moses, Public Information Officer; Stacey Norton, Human Resources Director; and Beau Oglesby, State's Attorney. Topics discussed and actions taken included: hiring Brandon Conquest as a Welcome Center Greeter for Tourism; hiring Breiel Brown and Tashana Phillips as Correctional Officer Trainees at the Jail; approving one additional Assistant State's Attorney position within the State's Attorney's Office, and afterward acknowledging the hiring of Ryan Bodley, Erienne Sutherell, and Valle Nicole Hauspurg as Assistant State's Attorneys; promoting John Azzolini from Retail Operations Manager within the Department of Liquor Control to Deputy Director of Economic Development; reclassifying the position of Natural Resources Inspector to Natural Resources Planner II in Environmental Programs and transferring Janelle Irwin from Natural Resources Inspector to the Natural Resources Planner II position; receiving legal advice from counsel; and performing administrative functions.

After the closed session, the Commissioners reconvened in open session. Commissioner Bunting called the meeting to order and announced the topics discussed during the morning closed session.

The Commissioners reviewed and approved the minutes of their February 2, 2016 open and closed session meetings as presented.

Pursuant to the request of Housing Program Administrator Jo Ellen Bynum and upon a motion by Commissioner Bertino, the Commissioners unanimously approved bid specifications for the rehabilitation of a single-family home in the Berlin area, which is to be funded through the County's current Community Development Block Grant (CDBG) Housing Rehabilitation grant.

The Commissioners met with Volunteer Services Manager Kelly Brinkley to discuss her request to approve a proposed Volunteer Connection logo recognizing Worcester County Volunteer Services (WCVS) as a designated volunteer center in Maryland to include on the updated Volunteer Services brochure and other WCVS materials going forward. Ms. Brinkley advised that the new logo would distinguish WCVS as the one stop shop for volunteer opportunities in the County. Upon a motion by Commissioner Bertino, the Commissioners unanimously approved the new logo for use by WCVS in all its outreach programs and materials.

The Commissioners reviewed and discussed various board appointments.

Upon a nomination by the Commission on Aging Board of Directors and upon a motion by Commissioner Purnell, the Commissioners unanimously agreed to appoint Joyce Cottman to the Commission on Aging to fill the remainder of a three-year term expiring September 30, 2016 to fill the vacancy created by the resignation of Gloria Blake.

Upon a nomination by Commissioner Purnell, the Commissioners unanimously agreed to appoint Teola Brittingham to the Commission for Women for the remainder of a three-year term expiring December 31, 2018 to fill the vacancy created by the resignation of Shirley Dale.

Upon a nomination by Commissioner Church, the Commissioners unanimously agreed to appoint Elena Ake to the Tourism Advisory Committee for the remainder of a four-year term expiring December 31, 2016 to fill the vacancy created by the resignation of Linda Glorioso.

Upon a nomination by Commissioner Elder, the Commissioners unanimously agreed to appoint Jason Cunha as a Business Representative member of the Lower Shore Workforce Investment Board for a four-year term expiring September 30, 2019 to replace John Ostrander whose term had expired.

The Commissioners met with County Attorney Maureen Howarth to review two bills introduced by the Eastern Shore Delegation related to the Department of Liquor Control (DLC) exit strategy. On December 1, 2015, the Commissioners asked the Eastern Shore Delegation to introduce and seek passage of legislation for consideration during the 2016 Maryland General Assembly Session to amend State law to allow a Class A, Beer, Wine and Liquor License (Package Store) in Worcester County, with the restriction that no license can be issued within a 10-mile radius of an existing County retail store, without the permission of the County Commissioners, to help them implement an exit strategy that includes ceasing wholesale operations on September 30, 2016, except for those necessary to continue stocking the County retail stores and to liquidate remaining inventory that can't be used in the retail stores, and ceasing all remaining wholesale operations and retail operations by June 30, 2017.

Ms. Howarth reviewed the two bills. She advised that House Bill 697, sponsored by Delegates Mary Beth Carozza and Charles Otto, mirrors the Commissioners' request and would amend Article 2B of the Maryland Annotated Code to allow class A, Beer, Wine and Liquor Licenses (off-sale) in Worcester County, with certain restrictions - specifically the Class A beer, wine and liquor license may only be issued for an establishment that is outside a 10-mile radius of a County-owned or County-operated dispensary without approval from the County Commissioners. She stated that Senate Bill 967, sponsored by Senator Mathias, authorizes a Class A Beer, Wine and Liquor License in Worcester County; however, unlike HB 697, it does not impose the requested 10-mile radius restriction. She further advised that, with a 10-mile

radius restriction in place, the DLC dispensaries are a significant asset that can be sold or sub-let to private operators. Without the restriction, a new Class A license holder could open a store in any location, to include being only blocks away from DLC retail liquor stores, which would then reduce the County's ability to sub-lease these dispensaries. Ms. Howarth advised that, if the County is unable to sell or sub-lease the dispensaries, the additional liability to the County for remaining lease payments would be approximately \$804,000, and this is in addition to the projected \$1 million loss to the County under the best case scenario presented on December 1, 2015. Therefore, the revised projected County loss could increase to \$1.8 million. Ms. Howarth advised that the Commissioners have three options: write a letter of support for HB 697, which includes the 10-mile radius restriction, and encourage Senator Mathias to amend SB 967 to mirror HB 697; write a letter of support for SB967, which excludes the 10-mile radius provision, and encourage Delegates Carozza and Otto to amend HB 697 to mirror SB 967; or meet with Senator Mathias and Delegates Carozza and Otto to develop a compromise between the two bills that they can all three support.

Commissioner Lockfaw stated that the Commissioners and County staff invested substantial time and attention into developing an exit plan that would best serve the needs of Worcester County taxpayers and mitigate financial losses, and stated that Senator Mathias should support their request. Commissioner Church concurred and stated that Senator Mathias does not seem to be very sympathetic to Worcester County, the district he represents. In response to a question by Commissioner Bunting, Ms. Howarth advised that if the bills do not match they will be sent to the Rules Committee where the differences may be reconciled or more likely both bills would fail.

Upon a motion by Commissioner Lockfaw, the Commissioners unanimously agreed to send a letter to the Eastern Shore Delegation supporting HB 697 as presented and requesting SB 967 be amended to include the 10-mile radius restriction to match HB 697.

Pursuant to the recommendation of Ms. Howarth and upon a motion by Commissioner Bertino, the Commissioners unanimously agreed to change the applicant's name on the tidal wetlands license for a force main built under Turville Creek from Ocean Enterprises 589, LLC to the County Commissioners of Worcester County, Maryland, as requested by the State of Maryland Board of Public Works. Ms. Howarth advised that Ocean Enterprises 589, LLC built the six-inch diameter force main under Turville Creek in Ocean Pines to extend sewer service from the Ocean Pines Sanitary Service Area (SSA) to the newly expanded Ocean Downs Casino, and turned the Deed of Sale over to the County on March 13, 2015 upon completion of the project. She further stated that Public Works officials concur with this recommendation.

Pursuant to the request of Jennifer LaMade, Director of Planning, Quality, and Core Services for the Health Department, and upon a motion by Commissioner Lockfaw, the Commissioners unanimously awarded the bid to replace the existing front automatic sliding door assemblies at the Health Department in Snow Hill, with a substitution of Stanley Magic Force door operators in lieu of the specified Horton door operators at a total installed price of \$14,790 to Walker & Laberge Co., Inc. of Delmar, Maryland.

Pursuant to the request of Public Works Director John Tustin and upon a motion by

Commissioner Lockfaw, the Commissioners unanimously awarded the bid for the blacktop resurfacing of approximately 4.10 miles with approximately 4,342 tons of Superpave 9.5 mm Bituminous Concrete at 1 ½ inches compacted depth at a fixed per ton price of \$69.94 for a total estimated cost of \$303,679.48 to Allan Myers of Dover, Delaware. They further agreed to add an additional 1,939 tons of blacktop to the contract at an additional cost of \$135,613.66 for a revised total of \$439,293.14 to complete three additional roads as follows: Shire Drive (616 tons for .63 mile), Cash Road (200 tons for .24 mile), Cash Road intersection (30 tons), and Evans Road from Ironshire Station Road towards Cedar Lane (1,093 tons for 1.04 mile). Mr. Tustin advised that funding in the amount of \$1 million is available within the FY16 County Operating Budget to complete road resurfacing projects, including blacktop, chip seal, and slurry seal surfacing projects.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously awarded the sole bid for chip seal surfacing of approximately 27.86 miles of County roads (293,619 square yards of 7 RC Chip Seal) at a cost per square yard of \$1.45 for a total estimated cost of \$425,747.55 to American Paving Fabrics, Inc. of Hanover, Maryland. Mr. Tustin stated that American Paving Fabrics, a company the County has done significant business with in the past and been very pleased with the work, offered the County a very good price.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously awarded the low bid for slurry seal surfacing of approximately 3.45 miles of County roads and 11,172 square yards of parking area at the Snow Hill Public Works Roads Division facility for a total of 80,009 square yards of slurry seal at a total estimated cost of \$134,415.12 to Asphalt Paving Systems, Inc. (APS) of Hammonton, New Jersey. Mr. Tustin stated that this will be the first time slurry seal will be applied to County roads, but that APS has an outstanding reputation, and he feels confident they will do a good job. In response to a question by Commissioner Bunting, Mr. Tustin stated that slurry is cold application that is applied over blacktop to seal it for up to seven years. He further advised that APS's work is backed by a one-year warranty.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Bertino, the Commissioners unanimously approved the proposal for design of the Ocean Pines Wastewater Treatment Plant (WWTP) Operations Building at a total fee of \$30,850 to be performed by George, Miles and Buhr, LLC (GMB) of Salisbury, Maryland. Mr. Tustin stated that GMB is very familiar with the Ocean Pines WWTP and the operational needs in that facility, as they were the design engineers for the most recent plant expansion, recently completed a design contract to replace the sludge drying greenhouses, and assisted in conceptual development of the Operations Center floor plan in 2010.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Bertino, the Commissioners unanimously approved bid specifications to upgrade Pump Stations A and F in the Ocean Pines Sanitary Service Area (SSA). Mr. Tustin stated that funding for the project is included in the 2014 bond issue.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Church, the Commissioners unanimously approved out-of-state travel for Andy Stinson, Supervisory Control and Data Acquisition (SCADA) Technician within the Water and Wastewater Division of Public Works, to attend a two-day SCADA training session in July 2016 and a one-day training session in August 2016, both in Rochester, New York at a total cost of \$2,900, which includes tuition, travel, meals and lodging.

The Commissioners met with Mr. Tustin to review the results of Household Hazardous Waste (HHW) and Electronics Recycling (E-Cycle) Collection Day on Saturday, October 10, 2015. Mr. Tustin advised that the total advertising cost for this event was \$2,716, which included radio advertisements aired several times per day for a one-week period prior to the event and newspaper advertisements in several area newspapers for two consecutive weeks prior to the event. He stated that electronics collected totaled 16.43 tons or 32,860 pounds, with a disposal fee of \$7,700, and HHW totaled 4.62 tons or 9,240 pounds, with a disposal fee of \$13,078. He concluded that the total cost for this event was \$23,494.33. Commissioner Bertino praised the Recycling Division staff for their friendly and professional manner while assisting residents at the event.

Mr. Tustin informed the Commissioners that the next E-Cycle and Household Hazardous Waste Collection Day will take place Saturday, April 23, 2016, from 10:00 a.m. to 2:00 p.m. at the Park and Ride in West Ocean City. The County, in cooperation with the Maryland Department of the Environment (MDE) and Maryland Environmental Service (MES), sponsors this program. Mr. Tustin advised that the County-incurred expense for this event is approximately \$20,000 and is available in the FY15 budget.

Pursuant to the recommendation of Mr. Tustin and upon motions by Commissioner Lockfaw, the Commissioners unanimously declared the proposed list of County equipment and vehicles to be surplus property and agreed to notify the public of their intent to dispose of the surplus property by auction on GovDeals.com, with the caveat that lower mileage vehicles, with around 100,000 miles and no serious performance issues, be retained by the County and included in the fleet of pool vehicles.

Pursuant to the written request of William Gregory, Governor of the Lower Eastern Shore Moose Family Center No. 2431 and the recommendation of Mr. Tustin and upon a motion by Commissioner Bertino, the Commissioners unanimously authorized the Moose Lodge to use and mark Worcester County roads as part of the Third Annual "Our House/Our Kids Half Century Bike Ride and Festival" on Saturday, March 19, 2016.

The Commissioners reviewed and discussed a letter from Heather Harmon Disque, Regional Entomologist for the Maryland Department of Agriculture (MDA) Office of Plant Industries and Pest Management, stating that her office has identified two areas of gypsy moth populations that may cause defoliation in Worcester County and asking if the County is interested in participating in a gypsy moth aerial suppression project in spring 2016. She further noted that the County's estimated cost share for the aerial suppression project is estimated to be

\$825 if federal grant funds are secured or \$1,375 if no federal money is provided. This cost estimate does not include the cost of surveys. Following some discussion and upon a motion by Commissioner Bertino, the Commissioners unanimously agreed to participate in the gypsy moth aerial suppression project as requested.

The Commissioners met with Environmental Programs Director Bob Mitchell to review a proposed implementation policy for the sale, allocation and use of the additional sewage treatment capacity in the Mystic Harbour Sanitary Service Area (SSA) following the completion of the new Mystic Harbour Wastewater Treatment Plant (WWTP), and specifically within the overlay area of the Mystic Harbour SSA and the West Ocean City (WOC) SSA, as adopted in the Worcester County Water and Sewerage Master Plan. Mr. Mitchell reviewed the proposed policy, which was developed by the County Water and Sewer Committee. He also advised that the committee recently reviewed correspondence from Attorneys Hugh Cropper and Mark Cropper on behalf of their clients requesting that the Commissioners adopt a policy to allow the private sale and transfer of Equivalent Dwelling Units (EDUs) of water and sewer capacity within the Mystic Harbour SSA, similar to that which has been permitted in the WOC SSA since 1997. Mr. Mitchell concluded that the committee strongly recommends against adoption of an EDU Transfer Policy in the Mystic Harbour SSA due to conflicts with the proposed County policy and the negative impact that such a transfer policy would have on the financing plan to repay the debt on the Mystic Harbour WWTP upgrade and expansion project.

Commissioner Mitreic made a motion, seconded by Commissioner Lockfaw, to approve the policy developed by staff and to deny the request for establishment of an EDU Transfer Policy in the Mystic Harbour SSA.

Commissioner Church stated that the proposed plan developed by staff would impact his district, and he requested an opportunity for both Hugh and Mark Cropper, who were in attendance at the meeting, to speak on behalf of their clients. In response to a question by Commissioner Bunting, Ms. Howarth advised that the Commissioners could deny the request, since this is an administrative matter and not a public hearing; receive comment from the two attorneys today; or postpone further discussion until the next meeting to give interested parties an opportunity to share their concerns with Commissioner Church. She noted, however, that this is not a public hearing, and the Commissioners are not obligated to receive public comment. In response to a question by Commissioner Bertino, Mr. Mitchell confirmed that this issue is time sensitive, as projects awaiting this capacity cannot move forward until the policy is adopted. Commissioner Bertino stated concern that there may be individuals impacted by this decision who are not here today and would like the opportunity to share their concerns; therefore, he thought further discussion should be postponed to give Commissioner Church an opportunity to speak to his constituents and share their concerns at the next meeting. Commissioner Church suggested conducting a public hearing on both the staff policy and the proposed EDU Transfer Policy in the Mystic Harbour SSA. Assistant Chief Administrative Officer Kelly Shannahan stated that the staff policy was an internal procedure only and suggested that the Commissioners endorse the staff policy and only consider the proposed EDU Transfer Policy at the public hearing, since that was a separate matter independent of staff policy. Commissioner Church reiterated that the public hearing should address both the staff policy and the proposed EDU Transfer Policy.

Commissioner Mitrecic stood by his motion to approve the staff recommendations. However, Commissioner Lockfaw retracted his second to Commissioner Mitrecic's motion. Commissioner Mitrecic's original motion, therefore, failed for lack of a second.

Following some discussion and upon a motion by Commissioner Church, the Commissioners voted 6-0-1, with Commissioner Bunting abstaining from the vote, to schedule a public hearing to receive public comment on both the staff policy and the proposed EDU transfer policy in the Mystic Harbour SSA on March 15, 2016.

Pursuant to the recommendation of Development Review and Permitting Director Ed Tudor and upon a motion by Commissioner Bertino, the Commissioners unanimously agreed to schedule a public hearing on Rezoning Case No. 398 for March 15, 2016. This application was submitted by Attorney Hugh Cropper, IV on behalf of Salt Grass Bali Hi, LLC for an amendment to the Official Zoning Maps to rezone approximately 24.031 acres of land located on the southerly side of St. Martins Neck Road at the westerly side of Salt Grass Point Road from E-1 Estate District to A-2 Agricultural District. Mr. Tudor advised that the application received a favorable recommendation from the County Planning Commission.

The Commissioners met in legislative session.

The Commissioners met with Mr. Tudor to review a proposed text amendment application submitted by Attorney Mark Cropper that seeks to amend the Zoning and Subdivision Control Article to amend various sections of the CA Commercial Airport District regulations and Lot Requirements to permit commercial marine yards and associated uses in the CA District and to exempt structures in the CA District from height limits, except those limits of the AP Airport Protection District. Following some discussion, Commissioners Bertino, Church, Elder and Mitrecic introduced the aforementioned bill as Bill 16-1 (Zoning - Commercial Marine Yards in the CA Commercial Airport District) and agreed to schedule a public hearing on the bill for March 15, 2016.

The Commissioners met with Fire Marshal Jeff McMahon to review a proposed text amendment application drafted by staff at the request of Commissioner Church seeking to amend the Public Safety Article to modify the requirements with regard to automatic fire sprinklers in townhouse units. Mr. McMahon stated that the bill has been drafted as emergency legislation and would allow townhouses in a group of three or more townhouse units to be equipped with automatic fire sprinkler systems compliant with a National Fire Protection Association (NFPA) 13D system (for one and two-family dwellings and manufactured homes), rather than an NFPA 13R system (for low-rise residential, multi-family occupancies). Following some discussion, Commissioners Bertino, Bunting, Church, Elder, Lockfaw, Mitrecic and Purnell introduced the aforementioned bill as Emergency Bill 16-2 (Public Safety - Townhouse Fire Sprinkler Systems) and agreed to schedule a public hearing on the bill for March 15, 2016. Mr. Shannahan advised that Section 2 of draft Emergency Bill 16-2 had been amended slightly to include the additional language, "...in which case the townhouse units shall be considered as one- and two-family dwellings for the purpose of determining the applicable automatic fire sprinkler requirements." Commissioner Church thanked staff for their quick work on this draft bill.

The Commissioners adjourned their legislative session.

The Commissioners answered questions from the press, after which they adjourned to perform administrative functions.

The Commissioners adjourned to meet again on March 1, 2016.