

Minutes of the County Commissioners of Worcester County, Maryland

May 16, 2017

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

The Commissioners met with Board of Education members at 8:30 a.m. to dedicate the newly renovated and expanded Snow Hill High School (SHHS).

Following a motion by Commissioner Elder, seconded by Commissioner Purnell, the Commissioners unanimously voted to meet in closed session at 9:30 a.m. in the Commissioners' Conference Room to discuss legal and personnel matters permitted under the provisions of Section 3-305(b)(1), (4), 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; Ed Baker, Interim County Attorney; Kim Moses, Public Information Officer; Stacey Norton, Human Resources Director; and Merry Mears, Economic Development Director. Topics discussed and actions taken included: transferring and promoting Adam Barbely from Maintenance Worker III within the Maintenance Division of Public Works to Building, Housing, and Zoning Inspector II within Development Review and Permitting, hiring Kyle Tyler as a Roads Worker I and Tyler Brittingham as a Roads Worker II within the Roads Division and Robert Losh as a Landfill Operator I for the Solid Waste Division of Public Works; posting to fill vacancies for a Transfer Station Attendant for the Solid Waste Division, a Building Maintenance Mechanic III for the Maintenance Division, and a Plant Operator Trainee for the Water and Wastewater Division of Public Works, an Environmental Sanitarian III for Environmental Programs, and a Warden for the Worcester County Jail; considering a potential business to locate in the County; 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 open and closed session minutes of their April 25, 2017 and May 2, 2017 meetings as presented.

The Commissioners conducted a public hearing to obtain the views of citizens on community, economic development, and housing needs to be considered for submission of an

application to the Maryland Community Development Block Grant (CDBG) Program and to receive comments on the proposal to file a new application to receive a CDBG Program grant of \$300,000 to rehabilitate 18 owner-occupied homes over the next two years, with funding to be prioritized to extremely low income, disabled, and elderly applicants and to eliminate imminent health and safety hazards. Housing Program Administrator Jo Ellen Bynum advised that these funds will cover construction, relocation, lead testing, and clearance costs associated with the continuation of the Worcester County Housing Rehabilitation Program, and with County in-kind funding of \$75,000 to be met through her administration of the program. She advised that qualifying expenditures include the Program Administrator and Inspector's fees, flood determination reports, credit reports, appraisals, advertising expenses, mailings and office supplies. She further advised that since 1987 the County Housing Rehabilitation Program has been working to address the housing needs of residents and in that time has rehabilitated 282 homes and replaced 26 homes, thus meeting the U.S. Department of Housing and Urban Development's (HUD) minimum livability standards. She stated that CDBG funding coordinates State and local government efforts to promote economic development and new growth and to increase family-sustaining jobs to raise the standard of living for County residents. Ms. Bynum concluded that the County's current \$300,000 CDBG Program grant will expire May 31, 2017, at which point all funds shall be expended and 18 rehabilitations completed as required, and she requested authorization to file the new grant application.

In response to questions by Commissioner Elder regarding potential liability issues associated with administering the CDBG, Ms. Bynum advised that the County places a five-year lien on all properties rehabilitated with CDBG funds, so if a property owner applied for a loan against the home, the potential lender would contact the County and either request that the County agree to subordinate its existing lien or request the payoff amount to close out the CDBG Program grant.

Commissioner Bunting opened the floor to receive public comment.

There being no public comment, Commissioner Bunting closed the hearing.

Following some discussion and upon a motion by Commissioner Church, the Commissioners unanimously adopted Resolution No. 17-9, authorizing the filing of a CDBG application to fund the County's Housing Rehabilitation Program, authorizing President Bunting to sign the Statement of Assurances and Certifications, and renewing the County's Residential Anti-Displacement and Relocation Plan for an additional five years through May 16, 2022.

The Commissioners commended Ms. Bynum after reviewing a letter from Cindy Stone, Office of Community Programs Director for the Maryland Department of Housing and Community Development (DHCD) regarding the results of the State Monitoring Report that assessed the County's recently completed CDBG Housing Rehabilitation Program. In her letter, Director Stone stated that Ms. Bynum continues to be an exemplary administrator for the County's housing rehabilitation program, which is a best practice model for housing rehabilitation projects for the State of Maryland. Her leadership with this grant enabled the County to exceed its original national objective goal by increasing the number of homes rehabilitated from 18 to 26, and the State is proud to be a partner in the County's commitment to excellent community development initiatives to benefit residents. Assistant Chief Administrative Officer Kelly Shannahan stated that it is a pleasure working on this program with Ms. Bynum

who runs a tight ship and does a great job, as evidenced in the State report. Commissioner Bertino congratulated her as well, noting that the report states that the County's performance goes well beyond the goals set in the grant agreement, and the record-keeping and financial management were exceptionally accurate, complete, and orderly, and he thanked her for making the County shine. Commissioner Purnell thanked Ms. Bynum, stating that she knows several homeowners who benefitted from the County's Housing Rehabilitation Program, and for individuals in need of assistance that program is a life changer. Commissioner Bunting echoed the comments of his colleagues and thanked Ms. Bynum for her diligence and the great job she does every day to improve the quality of life for County residents.

Pursuant to the request of Budget Accountant Kim Reynolds and upon a motion by Commissioner Lockfaw, the Commissioners unanimously authorized Commission President Bunting to sign the Grant Award and Acceptance Form from the Governor's Office of Crime Control and Prevention for the FY17 Opiate Awareness Campaign Grant of \$15,000, which will be used to fund the production and broadcast of a 30-second public service announcement outlining the dangers of opiate drug use.

Pursuant to the request of Ms. Reynolds and upon a motion by Commissioner Purnell, the Commissioners unanimously authorized Commission President Bunting to sign the Governor's Office of Crime Control and Prevention Grant Application for funds of \$50,615 for the grant-funded position of Heroin Coordinator within the Sheriff's Office to allow the Criminal Enforcement Team to maintain the coordination of entering all necessary data for drug investigations, drug seizures, drug arrests, heroin and opioid overdoses, and other drug-related investigation activities.

In response to a question by Commissioner Bertino, Ms. Reynolds stated that the continuation of this grant-funded position is contingent upon the receipt of future grant funding or other local funding, as may be approved by the Commissioners if the grant application is denied.

Pursuant to the request of Recreation and Parks Director Paige Hurley and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Commission President Bunting to sign the renewal Agreement Between the Mayor and City Council of Ocean City, Maryland, Wicomico County, Maryland, and Worcester County, Maryland for the Mid-Atlantic Amateur Sports Alliance (MAASA). The Commissioners further authorized future contract renewals, with no substantive changes, to be handled administratively, upon review and approval by County Administration to the County Attorney. Mr. Hurley explained that the initial agreement was first approved by the Commissioners on June 17, 2014, establishing a successful venture that has allowed the three entities to link and leverage their combined assets to attract, retain, and build sports events, with a focus on amateur athletics to grow the region's economy and reputation as a premiere sporting destination. He pointed out that the partners hosted a Beachfest Volleyball Festival last weekend that attracted 200 volleyball teams to the area. Commissioner Mitrecic applauded Mr. Hurley for the outstanding relationship he has built with officials from Ocean City and Wicomico County to make this partnership venture a growing success.

Human Resources Director Stacey Norton advised the Commissioners that Worcester County was recently recognized by the Healthiest Maryland Businesses (HMB) with Gold Status for its Wellness at Work Award program, which was derived from the Center for Disease Control (CDC) Workplace Health Model. She advised that HMB is a collaboration of Maryland businesses with a shared mission of improving health through worksite wellness efforts, and participating organizations, like Worcester County Government, are referred to accredited work site wellness resources, receive education and assistance, and are recognized for their commitment to improving workforce health. She stated that the goals of the HMB are to raise awareness about the importance of sustaining a healthy workforce, recruit business leaders who are champions of healthy workplace practices and policies, assist businesses with worksite wellness programming that will improve their bottom line, and then recognize businesses for their commitment and successes. She concluded that Risk Manager Eddie Carman will be accepting the award at the 8th Annual Worksite Health and Wellness Symposium in Baltimore on Friday, June 2. She recognized the efforts of both Mr. Carman, Benefits Manager Hope Carmean, and Recreation Program Manager Lea Cataggio who along with herself comprise the County's Wellness Committee. Commissioner Bunting thanked them for their efforts to help improve the health of employees and in turn keep health benefit costs down.

Pursuant to the request of Finance Officer Phil Thompson and upon a motion by Commissioner Church, the Commissioners unanimously approved the recommended FY18 Tax Ditch Rates and recommended Managers for all 18 Tax Ditches in the County. Mr. Thompson noted that the tax ditch rates were identical to the prior year, except for the Franklin Branch Tax Ditch where the minimum rate will increase from \$3.00 to \$3.60 per acre for tilled land, from \$1.75 to \$2.10 per acre for wooded land, and the minimum payment will increase from \$25.00 to \$50.00; and Pine Ridge Branch Tax Ditch where the minimum rate will increase from \$2.50 to \$3.50 per acre for tilled land, from \$1.50 to \$2.50 per acre for wooded land, and the minimum payment will increase from \$25.00 to \$35.00, as requested by the Tax Ditch Managers.

Pursuant to the request of Mr. Thompson and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved the transfer of \$750,000 from the Assigned Fund Balance to the Other Post Employment Benefit Trust for Worcester County Government and the Board of Education (BOE), increasing the total transfer to \$4.75 million for FY17.

Pursuant to the request of Library Director Jennifer Ranck and upon a motion by Commissioner Church, the Commissioners unanimously authorized Commission President Bunting to sign a letter to Irene M. Padilla, Assistant State Superintendent for Libraries, advising that the County will provide FY18 funds of \$50,000 to match the FY18 County Public Library Capital Grant of \$50,000 for the new Berlin Branch Library project. Ms. Ranck advised that she is looking forward to meeting with the Commissioners on June 6, 2017 at 1:30 p.m. to break ground on the new Berlin Branch Library on Harrison Road in Berlin.

The Commissioners met with Public Works Director John Tustin to discuss the need for design build services to correct recurring water infiltration issues at the building envelope and

needed heating, ventilation, and air conditioning (HVAC) upgrades to restore the integrity of the Ocean Pines Branch Library. Mr. Tustin reviewed the issues pertaining to the chimneys, roof system, and HVAC systems and concluded that there may be other as yet unidentified conditions that exist in the building's envelope that may be contributing to the intrusion of rainwater. He recommended accepting a proposal from Whiting-Turner Contracting Company, the construction manager for the new Berlin Branch Library, at a cost of \$71,183 for professional services to identify and develop design plans to correct these issues. In response to a question by Commissioner Bertino, Mr. Tustin stated that the Ocean Pines Branch Library was constructed in 1990, and the architect who managed the project and general contractor who built the facility have both retired and closed up shop, so they have no recourse to address these issues with them. Commissioner Bunting stated that a good masonry contractor should be able to repair the leaking chimneys and thus felt design services were unnecessary. Commissioner Elder concurred.

Upon a motion by Commissioner Mitreic, the Commissioners voted 5-2, with Commissioners Bunting and Elder voting in opposition, to accept the proposal from Whiting-Turner as presented.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Church, the Commissioners unanimously approved Change Orders No. 1, 3, and 4 with A-Del Construction Co., Inc. for the Berlin Rubble Fill Cap and Closure Project at a cost of \$1,900 for Change Order No. 1 for an additional topographic survey; \$1,450 for Change Order No. 2 to demolish, remove, and reincorporate a concrete structure into the closure cap area; \$3,548.92 for Change Order No. 3 to excavate and relocate additional rubble discarded along the western edge of the closure cap area, and a 12-day extension for Change Order No. 4, resulting in total revised additional project costs of \$6,898.92 for a total project cost of \$2,743,083.92. Mr. Tustin commended A-Del Construction and Construction Manager EA Engineering for the completion of a very well-run project.

The Commissioners met in legislative session.

The Commissioners met with Development Review and Permitting (DRP) Director Ed Tudor to review a text amendment application submitted by Hugh Cropper, IV, Esquire, on behalf of Diakonia, Inc. seeking to amend the Zoning and Subdivision Control Article to allow supported living facilities and associated uses as principal permitted uses in the C-2 General Commercial District and to establish specific parking requirements for such uses. Mr. Tudor stated that this latest application is in follow-up to a similar application submitted by Mr. Cropper in early 2016. He stated that the Planning Commission reviewed this latest text amendment at their May 4, 2017 meeting, at which time DRP staff expressed a number of concerns with the amendment as originally proposed. However, the applicant and staff were able to come to a mutually-agreeable version of the draft language. As a result, the Planning Commission concurred and gave a favorable recommendation to the revised text amendment application.

Following some discussion, Commissioners Bertino, Bunting, Church, Elder, Lockfaw, Mitreic, and Purnell introduced the aforementioned legislation as Bill 17-6 (Zoning - Supported Living Facilities in the C-2 General Commercial District) and scheduled a public hearing on June 20, 2017 to receive comments on the bill.

Commissioner Bunting closed the legislative session.

The Commissioners met with Assistant Chief Administrative Officer Kelly Shannahan to discuss the Department of Liquor Control (DLC) Management Committee's recommendation regarding the four bids to sublease the 4,800-square-foot Shore Spirits Retail Liquor Store, unit 1 in the Worcester Plaza Shopping Center at 10818 Ocean Gateway (U.S. Rt. 50 eastbound), which has a lease termination date of February 11, 2023. Mr. Shannahan reviewed the bids in order of recommendation from the DLC Management Committee as follows: Ankur R. And Kailas G. Patel - Bid No. 2 at no additional payment for the lease option, at \$62,909 to purchase assets and a 40% markup on the liquor inventory for a total bid price of \$550,051 contingent upon the landlord reassigning the lease to them at the same terms and conditions; Ankur R. and Kailas G. Patel - Bid No. 1 at an additional \$100 monthly lease cost, \$50,000 to purchase the assets, and a 25% inventory markup for a total bid price of \$500,430, with no contingency; Ashwin Patel at an additional \$51 monthly lease cost, \$53,500 to purchase the assets, and an 18% inventory markup for a total bid price of \$485,363; and Anthony L. Thomas at an additional \$1 monthly lease cost, \$60,000 to purchase the assets, and a 10% inventory markup for a total bid price of \$470,733.

Mr. Shannahan stated that the Ashwin Patel bid is the most clear and concise from a financial standpoint, he has the most significant experience owning and operating retail liquor stores, and he has a contract to purchase the Worcester Plaza Shopping Center and would immediately eliminate the County's current lease obligations at the time of settlement if awarded the bid. However, the two bids from Ankur and Kailas Patel are the highest bids whether or not the landlord will agree to accept the reassignment of the lease. He pointed out that, while the financing details are not quite as clear in these bids, their attorney, Mark Cropper, has assured that they will have sufficient funds to satisfy the terms of their bid at settlement. Furthermore, while Ankur and Kailas Patel have no experience owning or operating a retail liquor store, they do have relevant experience as the owners and operators of a beer and wine store at the Friendship Food Mart on U.S. Rt. 50 since 2007, and they have indicated possible interest in relocating the liquor store to the Friendship Food Mart or another nearby location in the future. He concluded that the DLC Management Committee recommends accepting Ankur and Kailas Patel's bid to sublease the store under Bid No. 2, with a commitment to pay the County's current lease obligations through October 4, 2018 (\$130,500), to purchase the furniture, fixtures and improvements for \$62,909, and to purchase all of the inventory in the Northern Worcester store at the cost paid by the County (currently estimated at \$254,744), plus a mark-up of 40% for a total of \$356,642, for a total bid price of \$550,051. In return, the Patels will receive the Commissioners' approval and support to apply for a Class "A" Beer/Wine/Liquor license at this location. He advised that staff further recommends acceptance contingent upon a formally approved Asset Purchase Agreement between the Patels and the County by June 6, 2017, and with permission for the Patels to apply for their liquor license by the May 22 application deadline for the Board of License Commissioners' meeting on June 21, 2017.

He also recommended the following two fallback positions. First, if the landlord will not reassign the lease to Ankur and Kailas Patel, staff recommends approval of Ankur and Kailas Patel's Bid No. 1, with the same conditions as the primary recommendation regarding support of the license application and approval of the agreements to include the following: a commitment to pay the County's current lease obligations through October 4, 2018, plus an additional monthly

lease payment of \$100, to purchase the furniture, fixtures and improvements for \$50,000, and to purchase all of the store inventory at the cost paid by the County plus a 25% mark-up at a cost of \$318,430, for a total bid price of \$500,430. Second, in the event that Ankur and Kailas Patel are unable to secure the liquor license or unable to meet the terms of settlement, staff recommends approval of Ashwin Patel's bid as an additional fallback position, with the same conditions as the primary recommendation regarding support of the license application and approval of the agreements and with the application and agreement dates adjusted in accordance with the bid terms as follows: a commitment to pay the County's current lease obligations through October 4, 2018 plus an additional monthly lease payment of \$51, to purchase the furniture, fixtures and improvements for \$53,500, and to purchase all of the store inventory at the cost paid by the County plus a mark-up of 18% at a cost of \$300,598, for a total bid price of \$485,363.

Upon a motion by Commissioner Mitrecic, the Commissioners unanimously accepted Bid Option No. 2 from Ankur R. and Kailas G. Patel as presented, and further approved the recommended fallback positions as requested.

Pursuant to the recommendation of Development Review and Permitting Director Ed Tudor and upon a motion by Commissioner Bertino, the Commissioners unanimously adopted the Findings of Fact and Zoning Reclassification Resolution No. 17-01, regarding Rezoning Case No. 405, filed by Attorney Joseph E. Moore, on behalf of Joseph J. Balsamo, to rezone approximately 2.62 acres of land located on the westerly side of MD Rt. 611 and easterly side of Sinepuxent Road, and more specifically identified on Tax Map 26 as Parcel 211 in the Tenth Tax District of Worcester County, Maryland, from A-2 Agricultural District to C-1 Neighborhood Commercial District.

The Commissioners reviewed a memo from Budget Officer Kathy Whited regarding the results of their FY18 Budget Work Session on May 9, 2017, at which time the Commissioners, with \$107,870 in expenditure reductions, were able to balance revenues and expenditures within the FY18 budget at \$198,932,675. As a result, the Commissioners agreed to cancel their final budget work session scheduled for that afternoon.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Commission President Bunting to sign the Street Lighting Agreement between the County Commissioners and Delmarva Power to add 20 new energy-efficient light-emitting diode (LED) 150-watt light fixtures in the West Ocean City area, specifically on Keyser Point Road, Center Drive, and Golf Course Road. Mr. Tustin stated that there will be construction costs of \$2,752.94 for this upgrade that include installing two new transformers, and there will be a monthly cost of approximately \$12.57 per light fixture for a total anticipated annual cost of \$3,016.80. He stated that the project could be completed as early as Memorial Day 2017. Commissioner Mitrecic noted that these are very dark, potentially very dangerous roads that are traveled by foreign students commuting on foot or by bike from temporary housing in the area to their places of employment in Ocean City throughout the busy summer months, and completing this project as quickly as possible will provide a safer environment. Commissioner Church agreed and thanked the staff of Delmarva Power for working with the County and State legislators to amend State law to accommodate this project

before the busy summer beach season gets underway.

The Commissioners answered questions from the press, after which they adjourned to meet again on June 6, 2017.