

Minutes of the County Commissioners of Worcester County, Maryland

August 15, 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

Following a motion by Commissioner Bertino, seconded by Commissioner Mitrecic, 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 Ed Tudor, Director of Development Review and Permitting. Topics discussed and actions taken included: hiring Wayne Taylor, Jr. and Jared Belka as Maintenance Worker I's for the Water and Wastewater Division, promoting Jesse Ray Bradford from Maintenance Worker II within the Water and Wastewater Division to a Landfill Operator II for the Solid Waste Division of Public Works, and hiring Zhane' Melendez as a part-time Document Imager II for the Treasurer's Office; promoting Timothy Mulligan from Sergeant to Lieutenant, and Nathan Bratten and Michael Townsend from Corporals to Sergeants at the Jail; posting to fill a vacancy for a Customer Service Representative in Development Review & Permitting; appointing Robert "Bo" Duke to the Lower Shore Workforce Investment Board; 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 August 1, 2017 meeting as presented.

The Commissioners presented a retirement commendation to Administrative Judge Thomas C. Groton, III in recognition of 34 years of dedicated service to Worcester County, where he began his career on the bench as Associate Judge for the District Court of Maryland for Worcester County.

The Commissioners met with Housing Program Administrator Jo Ellen Bynum regarding a request by the Maryland Department of Housing and Community Development (DHCD) for Worcester County's continued participation in the "On Behalf Of" (OBO) Maryland Mortgage

Program, which provides low interest loans primarily to first-time home buyers as well as to those homebuyers who have not owned their principal residence within the last three years, as well as the Maryland Home Credit Program. Upon a motion by Commissioner Bertino the Commissioners unanimously agreed to irrevocably transfer Worcester County's full \$1,751,616 tax-exempt housing bond allocation to the DHCD Community Development Administration for use in issuing housing bonds or mortgage credit certificates on behalf of Worcester County, as set forth in the 2017 allocation of the Maryland State Ceiling for use under the Maryland Mortgage Program and the Maryland Home Credit Program.

Pursuant to the request of Ms. Bynum and upon a motion by Commissioner Purnell, with Commissioner Mitrecic abstaining from the discussion and vote due to a potential conflict of interest, the Commissioners unanimously approved bid specifications to procure contractual housing inspection services to support the County's Housing Rehabilitation Program. Ms. Bynum explained that the current inspector is leaving the area and will no longer be able to provide these services.

Pursuant to the request of Local Management Board (LMB) Director Jessica Sexauer and upon a motion by Commissioner Lockfaw, the Commissioners unanimously authorized Commission President Bunting to sign the Community Partnership Agreement between the County, the LMB and the Governor's Office for Children with grant funds of \$779,918 for FY18, which reflects an increase over FY17 funds of \$537,947, to provide funding for programs which began July 1, 2017.

Pursuant to the request of Ms. Sexauer and upon a motion by Commissioner Bertino, the Commissioners unanimously approved the Request for Proposals (RFP) for the FY18 Disconnected Youth Project: Worcester Education, Employment, and Empowerment (WE3), which will provide local youth between the ages of 16 to 24 with opportunities for employment and career readiness, with program funding through the Governor's Office for Children.

Pursuant to the request of Colonel Doug Dods and the written request of Sheriff Reggie Mason and upon a motion by Commissioner Lockfaw, the Commissioners unanimously agreed to waive the standard bid process and declared Lexipol to be the County's sole source vendor for the design and implementation of law enforcement policy management software at a cost of \$40,000 and annual maintenance costs thereafter of approximately \$19,000 for the Sheriff's Office, with funds available within the FY18 budget for this purchase. Colonel Dods explained that Lexipol will work with Sheriff's Office staff to develop comprehensive, defensible policies and procedures, which will be written by the organization's staff of legal and public safety professionals, to adhere with State and federal statutes. He advised that Lexipol, which offers a 5% discount to Local Government Insurance Trust (LGIT) members and possible grant funding from LGIT, came highly recommended by Maryland Police Training Commission Executive Director Karen Kruger.

In response to a question by Commissioner Bertino regarding justification for naming Lexipol the sole source vendor, Lieutenant Andy McGee advised that most law enforcement software providers do not offer the policy and implementation components that Lexipol provides to assure adherence to legal policies. He stated that the new policy manual should be complete

within six to nine months, with Lexipol to continue providing regular updates and daily training bulletins. In response to a question by Commissioner Church, Lt. McGee advised that a dozen Maryland law enforcement agencies, including Garrett County, Easton, and Denton, utilize Lexipol, which only recently began offering their services in Maryland.

The Commissioners conducted a public hearing to receive comment on their intent to exempt from the County Zoning Ordinance the construction, operation, and maintenance of a freestanding radio communications tower and all supporting structures and necessary equipment on the Mystic Harbour Wastewater Treatment Plant (WWTP) site, identified on Tax Map 27 as Parcel 629. Emergency Services Director Fred Webster outlined the communications project and the reason for requesting said project be exempted from the provisions of the Zoning Ordinance. He stated that Emergency Services staff have been working diligently to resolve a public safety communications deficit in the West Ocean City (WOC) area, specifically regarding the communications equipment on the current Mystic Harbour water tower. Because the Maryland Aviation Administration advised that mounting the necessary antenna on the existing water tank would intrude into navigable air space, the next best alternative would be to construct a freestanding radio communications tower at a site staff has identified at the Mystic Harbour Wastewater Treatment Plant (WWTP) property as part of the new 800 MHZ P25 Emergency Radio Communications Network project. However, because this property is limited in size and located within a highly developed area, the project would need to be exempt from the setback and separation distance requirements in County Zoning and Subdivision Control Article. Mr. Webster thanked Development Review and Permitting staff for sending written notification to 203 area residents who could be affected by the setback requirements. He then advised that staff was contacted by only one resident who asked if the project would interfere with cell phone reception and was advised that it would not.

Commissioner Bunting opened the floor to receive public comment.

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

Upon a motion by Commissioner Bertino, the Commissioners unanimously adopted Resolution No. 17-15, exempting the communications tower and associated equipment and support structures on the Mystic Harbour WWTP site as a County project under the County Zoning Ordinance.

The Commissioners met with Environmental Programs Director Bob Mitchell to review an August 11, 2017 letter from the Commissioners to Kumar P. Barve, Chair of the House Environment and Transportation Committee, opposing legislative efforts to re-institute the statewide application of Best Available Technology (BAT), including nitrogen removal for all septic systems, which was considered during the 2017 legislative session, and opposing any such efforts to revive a similar broad-brush regulatory approach in the future. Mr. Mitchell confirmed that he testified on a panel that included fellow Environmental Directors and Les Knapp of the Maryland Association of Counties (MACo), where he discussed progress that had been made at the local level and voiced the County's support of the Hogan administration to revise the BAT requirements from all new septic systems, whether located in the critical area or not, to just requiring BAT for critical area replacements and new construction.

The Commissioners conducted a public hearing to receive comment on the proposed

Liquor Control Enterprise Fund FY18 Operating Budget of \$1,015,000. Finance Officer Phil Thompson reviewed the budget, noting that this is the last remaining facet of the former Department of Liquor Control (DLC), as wholesale operations ceased in 2016, and all of the other Shore Spirits Retail Liquor Stores (RLS) were transferred to private ownership. The proposed budget allows for continued operations of the Pocomoke retail liquor store until ownership is transferred to Kalpesh Patel at the conclusion of the license appeal process.

Commissioner Bunting opened the floor to receive public comment.

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

Upon a motion by Commissioner Bertino, the Commissioners unanimously adopted Resolution No. 17-16 adopting a budget of \$1,015,000 for continued operation of the Pocomoke retail liquor store with conservative net profits of \$18,900.

Pursuant to the recommendation of Public Works Director John Tustin in response to the written request of Attorney Mark Cropper, the Commissioners unanimously agreed to provide fire protection services from the Riddle Farm water system to the Ocean Landings II commercial area at a one time cost of \$1,854 per equivalent dwelling unit (EDU). Mr. Tustin advised that the commercial area, which is currently being developed by BLS Realty, LLC, will receive potable water service from the Wal-Mart/Home Depot water system, but that said system lacks the means necessary to provide complete fire protection services for the hydrants at Ocean Landings II. In response to a question by Commissioner Elder, Mr. Tustin advised that the funds derived from the sale of EDUs for fire protection only would help to offset a portion of the cost of the County waterlines and storage facility, but there were no future charges planned for maintenance or other fees.

The Commissioners met with Mr. Tustin to review the recommendation to award the low bid of \$53,300 to Binkley & Hurst of Seaford, Delaware for the purchase of two Massey Ferguson MF5710 yellow cab tractors for use by the Roads Division of Public Works. Although a slightly lower price was offered for a standard red tractor, the specifications call for yellow tractors for better visibility on the roads. In response to concerns raised by Commissioner Lockfaw, Mr. Tustin agreed that purchasing John Deere equipment to match much of the current fleet of tractors would be acceptable. Commissioner Lockfaw stated that purchasing like equipment would benefit the Roads Division for repair and maintenance purposes. In response to a question by Commissioner Bertino, Mr. Tustin stated that his department could quantify the potential savings due to standardizing of the parts inventory, but he did not have those numbers readily available at this time.

Upon a motion by Commissioner Lockfaw, the Commissioners unanimously awarded the bid to Atlantic Tractor of Salisbury, Maryland for the purchase of two John Deere 6105 E Cab Tractors at a cost per unit of \$58,571.50 for a total delivered cost of \$117,543 as the best bid for the County.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Elder, the Commissioners unanimously awarded the bid to purchase two Rhino Model DB-150 Offset Hydraulic Rotary Cutters at a cost per unit of \$9,125 for a total delivered price of \$18,250 to Selbyville Tractor & Equipment, Inc. of Selbyville, Delaware.

The Commissioners met with Mr. Tustin to review the recommendation to award the low bid for the blacktop resurfacing of approximately 14.37 miles of County roadway (Part A), using funds of \$1 million approved in the FY18 operating budget, and approximately 5,365 square yards for the Public Landing parking lot (Part B) utilizing Waterway Improvement funds of \$50,000 from the Maryland Department of Natural Resources (DNR) to Allan Myers MD, Inc. of Fallston, Maryland at a cost of \$69.90 per ton for a total estimated cost of \$998,451.60 for Part A and \$70.00 per ton for a total estimated cost of \$31,290 for Part B. The second lowest bid was from Chesapeake Paving & Sealing, Inc. of Salisbury, Maryland, at a cost of \$70.00 per ton for a total estimated cost of \$999,880 for Part A and \$70 per ton for a total estimated cost of \$31,290 for Part B. In response to a question by Commissioner Bertino, Mr. Tustin confirmed that the County awarded the bid for the spring FY17 blacktop surfacing project for County roadways to Chesapeake Paving and Sealing, and although the company had lacked adequate trucks and traffic control during the spring paving program, these challenges were overcome, although they did require more management by County staff. After some discussion and upon a motion by Commissioner Bertino, the Commissioners voted 6-1, with Commissioner Mitrecic voting in opposition, to award the bid for the fall FY18 blacktop surfacing of County roadways to Chesapeake Paving & Sealing, Inc. as the best bid since they are a more local vendor and given the marginal difference in the total price of only \$1,428.40 (less than 0.2%) for this \$1 million program.

The Commissioners met in legislative session.

The Commissioners conducted a hearing to receive public comment on Bill 17-8 (Zoning - Residential Planned Communities), which was introduced by Commissioners Bunting, Church, Elder, Lockfaw, Mitrecic, and Purnell on July 18, 2017. Development Review and Permitting (DRP) Director Ed Tudor reviewed the bill, which would amend the Zoning and Subdivision Control Article to allow up to 15 percent of the land area within the boundaries of a Residential Planned Community (RPC) to be zoned Commercial or Commercial Marine District rather than the current five percent. Mr. Tudor explained that, after working with Attorney Hugh Cropper, IV on behalf of Six Eleven Properties, LLC, Todd E. Burbage, Managing Member, to amend the original request, the proposed bill provides that no more than 5% of the gross area of a minor RPC with 20 or fewer residential units may consist of land zoned Commercial (C) or Commercial Marine (CM) and no more than 15% C or CM zoned land is permitted in a major RPC with more than 20 residential units. Furthermore, the bill requires that at least 50% of the gross acreage of C or CM zoned land must be utilized for retail or service uses as permitted in the C-2 General Commercial district somewhere in the project.

Commissioner Bunting opened the floor to receive public comment.

Attorney Hugh Cropper concurred with the Planning Commission and staff's assessment, advised that RPC's should be encouraged, and asked the Commissioners to adopt Bill 17-8 as presented. He then thanked Mr. Tudor and his staff for working with him to develop a bill that encourages true mixed-use development.

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

Following some discussion and upon a motion by Commissioner Church, the Commissioners unanimously adopted Bill 17-8 as presented.

The Commissioners met with Mr. Tudor to review a text amendment application

submitted by Hugh Cropper, IV on behalf of Ayres Creek Family Farm, LLC, seeking to amend the Zoning and Subdivision Control Article to permit the accessory use of a principal agricultural structure or use of land for the commercial hosting of non-agricultural functions and events in the E-1 Estate District. Mr. Tudor stated that staff had several concerns with the original amendment, specifically that the activity must occur on a farm and that the same provisions and restrictions apply to such use in the E-1 Estate District, as was recently imposed by the Commissioners on the same use in the A-1 and A-2 Agricultural Districts, to which Mr. Cropper concurred, and this proposed bill has been amended to correct those concerns. He stated that the Planning Commission reviewed the draft text amendment prepared by staff at their August 3, 2017 meeting 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 17-9 (Zoning - Commercial Non-Agricultural Functions in Agricultural Structures and Lands in the E-1 Estate District) and scheduled a public hearing on September 19, 2017 to receive comments on the bill.

Commissioner Bunting closed the legislative session.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously approved bid specifications for the purchase of one landfill compactor with bulldozer blade and powershift transmission for use within the Solid Waste Division of Public Works.

The Commissioners answered questions from the press, after which they adjourned to meet again on September 5, 2017.