

Minutes of the County Commissioners of Worcester County, Maryland

October 17, 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 Lockfaw, seconded by Commissioner Mitrecic, 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) 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, Fred Webster, Emergency Services Director; and James Hamilton, Emergency Services Assistant Director. Topics discussed and actions taken included: agreeing to post to fill the position of Supervisor of Assessments for Worcester 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 session minutes of their October 3, 2017 meeting as presented and the closed session minutes of their October 3, 2017 meeting as amended.

The Commissioners presented a proclamation recognizing October 23-27, 2017 as Economic Development Week to Economic Development Director Merry Mears, Deputy Director Kathryn Gordon, Office Assistant Kathy Shubert, and Tim Sherman business consultant of the Small Business Development Center (SBDC) at Salisbury University to highlight that residents and business owners alike benefit from Worcester County Economic Development services and activities, which are designed to enhance commerce.

Pursuant to the recommendation of Library Director Jennifer Ranck in response to the

request of Assateague Coastal Trust (ACT) Coastal Kids Director Verena Chase and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized ACT to build a rain garden at the site of the new Berlin Branch Library on Harrison Avenue, after July 2018, when the Library construction is completed and stormwater management has been installed by the contractors. Ms. Ranck advised that the current library has a very successful community demonstration garden that will be moved to the new location, and there are several spots that would be ideal for the rain garden, which will be useful to inform the public about native plants, the importance of sustainability, and responsible stormwater management.

Pursuant to the request of Jessica Sexauer, Acting Director of the Local Management Board (LMB), and upon a motion by Commissioner Lockfaw, the Commissioners unanimously awarded the highest-scoring proposal for the Worcester Education, Employment and Empowerment (WE3) Program to Telamon Corporation at a cost of \$150,000, with the contract to run from November 15, 2017 through June 30, 2018. Ms. Sexauer advised that the three proposals received by the bid deadline were reviewed and scored for quality assurance, and the Telamon Corporation proposal scored the highest at 100.4, while the low bid of \$99,705 from the Galaxy Group scored just 42.6, and the second low bid of \$149,859 from Worcester Youth and Family Counseling scored 89.8.

Pursuant to the request of Warden Donna Bounds and upon a motion by Commissioner Bertino, the Commissioners unanimously authorized Commission President Bunting to sign the Memorandum of Understanding (MOU) between the County Commissioners of Worcester County Maryland on behalf of the County Jail and Wicomico County Substance Abuse Services to facilitate the provision of opioid agonist treatment to current pregnant females in the methadone program upon incarceration at the County jail as necessary medical treatment for prenatal care.

In response to a question from Commissioner Bunting, Ms. Sexauer advised that the Worcester County Health Department does not have a methadone program, rather these services are facilitated by the Wicomico County Health Department. In response to a question by Commissioner Elder, County Attorney Maureen Howarth advised that the MOUs that the County Commissioners are being asked to sign today on behalf of the County Jail are already in place and identify former Warden Garry Mumford as the Jail Warden; therefore, these documents should be updated to identify Warden Bounds as the current Jail Warden.

Pursuant to the request of Warden Bounds and upon a motion by Commissioner Bertino, the Commissioners unanimously authorized Commission President Bunting to sign the MOU between the County Commissioners of Worcester County Maryland on behalf of the County Jail and the Worcester Criminal Bureau of Investigation (CBI), with the Sheriff's Office to provide a Certified Prison Rape Elimination Act (PREA) Investigator from CBI to investigate any and all reports of sexual assaults at the County Jail.

Pursuant to the request of Warden Bounds and upon a motion by Commissioner Bertino,

the Commissioners unanimously authorized Commission President Bunting to sign the MOU between the County Commissioners of Worcester County, Maryland and law enforcement agencies for other counties for the confinement of inmates under an unserved out-of-county or State warrant. Warden Bounds advised that at this time the Sheriff's Office and the Snow Hill Police Department are the only two agencies that have entered into this MOU.

Pursuant to the request of Warden Bounds and upon a motion by Commissioner Purnell, the Commissioners unanimously authorized Commission President Bunting to sign the MOU between the County Commissioners of Worcester County, Maryland on behalf of the County Jail and Swank Motion Pictures, Incorporated (an authorized distributor of copyrighted motion pictures for non-theatrical performances) for the Public Performance Licensing Agreement for Correctional Institutions at an annual cost of \$1,097.80, allowing staff to broadcast DVDs at the County Jail from November 1, 2017 through October 31, 2018. Warden Bounds advised that this MOU authorizes staff to broadcast DVDs that include but are not limited to informational DVDs that help inmates understand their rights, as well as recreational and entertainment DVDs to be broadcast to the entire inmate population. In response to a question by Commissioner Bunting, Warden Bounds advised that the contract price has not increased from the prior year.

Pursuant to the request of Recreation Superintendent Lisa Gebhardt and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Commission President Bunting to sign the MOU between the Mayor and City Council of Ocean City, Maryland (Primary Event Host), Worcester County, Maryland, Wicomico County, Maryland, and We Build You Play Sports Group, LLC (Event Organizer), with the event hosts and the event organizer to work cooperatively to host the Beachfest Volleyball Tournament from May 12-13, 2018, May 11-12, 2019, and May 9-10, 2020.

Pursuant to the request of Environmental Programs Director Bob Mitchell and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorize the use of \$4,058 from the forestry fee-in-lieu fund to purchase 33 trees and six shrubs from the Maryland Department of Natural Resources (DNR) Tree-Mendous Program, and cover the cost of labor to plant these trees at John Walter Smith Park in Snow Hill and the Northern Worcester Athletic Complex in Berlin. Mr. Mitchell confirmed that on November 1, 2016 the Commissioners agreed to consider using fee in lieu funds to support tree plantings in County parks, subject to presentation of a conceptual plan and formal request from staff on a case-by-case basis, such as these two parks.

Pursuant to the recommendation of Public Works Director John Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously awarded bids to purchase 22 vehicles as follows: three 3/4 ton Chevrolet 2500 Double Cab Pickup Trucks with Utility Bodies at a per unit cost of \$34,833 for a total cost of \$104,499; two 3/4 ton Dodge Ram 2500 Regular Cab 4x4 Pickup Trucks at a cost per unit of \$26,181 for a total bid of \$52,362; one 1/2

ton Dodge Ram Quad Cab 4x4 Pickup Truck at a total cost of \$23,896; one Dodge Durango SXT AWD at a total cost of \$25,561; one Dodge Durango SXT AWD at a total cost of \$25,561; one Chevrolet Express 3500 Cargo Van at a total cost of \$26,287; three Chevrolet Colorado Extended Cab 4x2 Pickup Trucks at a cost per unit of \$22,264 for a total cost of \$66,792; four Full Size Sedan four-door Chevrolet Impala LS with IFL at a cost per unit of \$22,998 for a total cost of \$91,992; and three Chevrolet Tahoe full-size 4x2 with Police Package at a cost per unit of \$33,549 for a total cost of \$100,647 to Hertrich Fleet Services, Inc. of Milford, Delaware; and one Chevrolet Silverado 1500 Crew Cab 4x4 Pickup Truck at a total cost of \$30,579; and two Chevrolet Silverado 1500 Double Cab 4x4 Pickup Trucks (both of which are identified as vehicle #11 in the bid documents) at a cost of \$27,399 per unit for a total cost of \$54,798 to I.G. Burton and Company, Inc. of Milford, Delaware. While the bid for the two Dodge Ram 1500 Quad cab 4x4 pickup trucks from Hertrich for vehicle #11 at a cost of \$23,934 per vehicle were \$3,465 lower than the successful bidder, the Commissioners, at the request of the Sherriff's Office, determined that the Chevrolet 1500 was a better model for use within the Animal Control Division due to the longer truck bed.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Commission President Bunting to sign the Deed, Bill of Sale and Assignment between WGC EDU, LLC (Contractor) and the County Commissioners of Worcester County, Maryland (Service Area) and release of liens from all of the major contractors, suppliers, and consultants for the Riddle Farm Sanitary Service Area (SSA) commercial sewer project serving the U.S. Rt. 50 Service Road properties along Samuel Bowen Boulevard, to accept these facilities into the Riddle Farm SSA wastewater system. Mr. Tustin advised that all of the punch list items have been completed, with the exception of the second of two membranes at the Riddle Farm Wastewater Treatment Plant (WWTP), which will be installed by the contractor by the end of October 2017. In response to a question by Commissioner Bertino, Mr. Tustin confirmed that the second membrane will be installed by and at the cost of the developer.

The Commissioners met with Assistant Chief Administrative Officer Kelly Shannahan on behalf of the Worcester County Sewer Committee to discuss a written request received September 29, 2017 from Hugh Cropper, IV, attorney for Sea Oaks Village, LLC to allocate 139 equivalent dwelling units (EDUs) of sewer service (135 EDUs for townhomes and four EDUs for commercial) from the Mystic Harbour Sanitary Service Area (SSA) to the 40-acre Sea Oaks Village Residential Planned Community (RPC) along with a deposit check in the amount of \$139,000. The property is zoned R-3 Multi-Family Residential and C-1 Neighborhood Commercial districts and located on the west side of Stephen Decatur Highway (MD Rt. 610) and north of Sinepuxent Road, and more specifically identified on Tax Map 26 as Parcel 274, Lot 3A. Mr. Shannahan advised that there are 298 available EDUs allocated in Area 1 (north of the airport) for the following uses: Infill and Intensification (148 EDUs), Vacant or Multi-Lot properties (80 EDUs), Single Family Dwellings (17 EDUs), and Commercial (53 EDUs).

Granting the request from Sea Oaks Village, LLC would require the allocation of 47% or 139 of the total 298 EDUs remaining in Area 1 in the following categories: 91% or 135 out of 148 EDUs remaining for Infill and Intensification and 8% or four out of 53 EDUs remaining for Commercial. He advised that the Step 1 RPC concept plan received a favorable recommendation by the Planning Commission, and the Commissioners are scheduled to conduct a public hearing on the request for Step 1 RPC approval on November 7, 2017, subject to approval of the EDUs to serve the proposed project. Mr. Shannahan advised that, prior to the replacement and expansion of the Mystic Harbour Wastewater Treatment Plant (WWTP), the subject property was allocated a total of 40 EDUs of sewer service in the Mystic Harbour SSA. However, on March 15, 2016, at the request of the property owner's attorney, Hugh Cropper, who argued that the subject property is an "environmentally sensitive, wooded area" and that "developing the property does not constitute smart growth; whereas transferring those (40) EDUs to the existing commercial center in West Ocean City does make good sense," the Commissioners granted approval to transfer the 40 EDUs to other properties in the Mystic Harbour/West Ocean City overlay area, leaving this property with zero EDUs. He concluded that the Commissioners could either deny the request for allocation of EDUs to this property; allocate a total of 40 EDUs to the property, as was previously allocated; or allocate the full request for 139 EDUs from Area 1.

Commissioner Bertino questioned what dynamic of the property has occurred that now negates the former declaration by Mr. Cropper that development of the subject property does not constitute smart growth. Mr. Shannahan advised that staff is aware of no changes to the environmental conditions of the site. Commissioner Church pointed out that the Planning Commission granted the proposed RPC a favorable recommendation, and because the County has EDUs available to meet the request, the Commissioners should approve this request, particularly as they had been concerned initially that the County would have a difficult time selling the EDUs available in the Mystic Harbour SSA.

A motion by Commissioner Church to approve the request to allocate 139 EDUs to the property died for lack of a second.

In response to a question by Commissioner Bunting, Environmental Programs Director Bob Mitchell stated that the property includes nontidal wetlands, and while it would be subject to meeting the 2008 authorizations set in place for nontidal wetland permits, no such permits have been issued to date. In response to additional concerns raised by Commissioner Bunting, Mr. Shannahan advised that, while the Infill and Intensification use category is the only category with enough EDUs to accommodate the requested allocation, the Commissioners could assign a portion of the EDUs from any of the three designated use categories if they choose to grant the request.

Commissioner Elder commented that Mr. Cropper argued that the owners were unable to use the 40 EDUs to develop this property last year, but now need 139 EDUs for development of the property that was previously undevelopable.

Following further discussion and upon a motion by Commissioner Bertino, the Commissioners voted 4-3, with Commissioners Bertino, Bunting, Elder, and Purnell voting in favor of the motion and Commissioners Church, Lockfaw, and Mitrecic voting in opposition, to

deny the request to allocate 139 EDUs of sewer service from the Mystic Harbour SSA for the Sea Oaks Village RPC and to return the \$139,000 deposit to Mr. Cropper. Furthermore, since the public hearing on the application for Step 1 approval of the Sea Oaks Village RPC application was contingent upon the allocation of sewer capacity, the Commissioners cancelled the public hearing for that application.

Pursuant to the recommendation of Mr. Shannahan and upon a motion by Commissioner Bertino, the Commissioners unanimously approved the annual holiday turkey/ham program and agreed to present each of the roughly 660 County employees with a \$30 WalMart gift card for the purchase of a turkey or ham for the holidays at an approximate overall cost of \$19,800. This represents an increase of \$10 per card from prior years that accounts for inflation. Funds for the gift cards are available within the FY18 budget.

The Commissioners met with Finance Officer Phil Thompson, Assistant Finance Officer Jennifer Swanton, and Human Resources Director Stacey Norton to review the findings of the fifth biennial Other Post-Employment Benefits (OPEB) Actuarial Valuation Study, which was developed by County staff and the County actuaries, Menard Consulting, Inc., in accordance with the Governmental Accounting Standards Board (GASB) pronouncements 43 and 45 that were implemented in FY09. Mr. Thompson advised that the study measures and reports the liabilities associated with post-employment benefits that the County provides to County employees and Board of Education (BOE) employees, and it analyzes the funding status of the County OPEB plan, with a primary focus on the cost of retiree healthcare, including medical and pharmaceutical. Mr. Thompson pointed out that the total Actuarial Accrued Liability (AAL) is \$256.9 million over the next 30 years, which includes \$75.4 million for County employees and \$181.5 million for BOE employees. He stated that this liability is more than double the liability identified in the 2006 study, which is when the County first began setting aside OPEB funding, and he advised that the County's inclusion of the BOE in pay-as-you-go funding for OPEB differs from many Maryland jurisdictions that have allowed their BOEs to continue the pay-go funding for their current retirees' medical costs, while ignoring the long-term aspect of providing these benefits. In addition, the Annual Required Contribution or (ARC) of \$25.4 million is comprised of \$4.7 million for the General Government and \$20.7 million for the BOE, and if fully funded would result in a Trust that could pay the estimated expenses associated with this benefit into perpetuity. In the current FY18 Budget, the County has included \$4 million to fund this liability along with a potential additional appropriation in the Assigned Fund Balance. Mr. Thompson explained that the BOE is not contributing to this funding, and the total amount currently appropriated is well below the nearly \$9.6 million in funding required for current retirees; therefore, the principal balance in the OPEB trust is reducing. He advised that, for the period ending June 30, 2017, the OPEB liability is 26% funded, noting that General Government is 60.6% funded, and the BOE is 11.5% funded. Although this level of funding is respectable when compared to similar Maryland counties, it highlights the need to focus on additional funding and/or alternative methods to control this rapidly increasing liability. In addition, Mr.

Thompson stated that the sustainability of the current funding model is clearly in question as healthcare inflation is increasing at a much faster pace than the budget allocation for the OPEB Trust. Based on the current trend data and our funding history for the trust, Mr. Thompson estimated that the County will incur major funding shortfalls within the next six to eight years unless they commit to systematic increases in annual OPEB Trust funding.

Mr. Thompson stated that the attrition rates for those covered by County benefits prior to becoming eligible for Medicare are daunting and driving up the OPEB liability. Specifically, while only 5% of County employees retire before age 62, a full 20% of BOE employees retire by that same age, and many of these retirees still have spouses and dependents living at home who are covered by County health benefits. He stated that, to help stave off increases in health and pharmaceutical costs, the County has made a number of changes to County benefits that include instituting copays, increasing the health benefits cost share from 10% to 20% for all new employees hired beginning July 1, 2015, and eliminating cost-share for medical insurance benefits for dependents of new County and BOE employees hired on or after October 1, 2017 upon their retirement. However, more changes are needed to assure the sustainability of the OPEB Trust funds. He strongly recommended phasing in a pay-go system beginning at a rate of \$250,000 for General Government and \$750,000 for the BOE in FY18 and increasing by that amount each year thereafter, which would allow the OPEB liability for County Government to be fully-funded in the next 5-6 years, and the BOE liability to begin improving in 10 years. He suggested conducting a work session on OPEB funding prior to the start of FY19 budget deliberations. Ms. Swanton advised that the OPEB Actuarial Valuation Study cost estimates were based on earning percentages of 6.5% and 7%, though actual health costs are trending slightly higher.

In response to a question by Commissioner Bunting, Mr. Thompson stated that, based on existing projections and earnings, the County should be able to support the OPEB for the BOE for six to eight years and County Government for up to 20 years. Commissioner Bunting stated that the Commissioners have heard staff's concerns and look forward to working with them in the near future to begin addressing future OPEB Trust funding challenges.

Pursuant to the recommendation of County Attorney Maureen Howarth and upon a motion by Commissioner Bertino, the Commissioners unanimously approved the proposed two-year retention schedule for video recordings of the Commissioners' public meetings. Video recordings of the Commissioners' meetings will be available for viewing on the County website beginning in November 2017.

The Commissioners reviewed and agreed to provide recommendations to fill two vacant seats on the Wor-Wic Community College Local Advisory Council and to determine their voting members and nominees for Second Vice Chair and Treasurer for the Tri-County Council (TCC) in 2018 at a future meeting.

The Commissioners met in legislative session.

The Commissioners conducted a hearing to receive public comment on Bill 17-10 (Zoning - Time Limitations on Postponed Applications), which was introduced by Commissioners Bertino, Bunting, Church, Elder, Lockfaw, Mitrecic, and Purnell on September 19, 2017. Development Review and Permitting Director Ed Tudor stated that this bill establishes a two-year time limitation on rezoning applications and a one-year time limitation on Board of Zoning Appeals (BZA) applications. He then reviewed the history of the bill, which is outlined in the September 15, 2017 open session meeting minutes, and stated that it is meant to curtail those who file applications for rezoning and BZA actions that are then postponed by the applicants or their attorneys and then languish for extended periods of time, and the resulting postponements require staff to duplicate their efforts without the County being adequately compensated for the additional strain on resources.

Commissioner Bunting opened the floor to receive public comment.

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

Upon a motion by Commissioner Mitrecic, the Commissioners unanimously adopted Bill 17-10 (Zoning - Time Limitations on Proposed Applications) as presented.

The Commissioners met with Mr. Tudor to review a text amendment application submitted by Hugh Cropper, IV on behalf of Arden Center, LLC, seeking to amend the Zoning and Subdivision Control Article to allow self-storage facilities up to 40,000 square feet of gross floor area as a permitted principal use in the C-2 General Commercial District, rather than the current limitation of 15,000 square feet. Mr. Tudor stated that this bill reflects changes recommended by staff and supported by Mr. Cropper. He noted that, since self-storage was much like warehousing that is already permitted to be up to 100,000 square feet in gross floor area in the C-2 General Commercial District by right, it was not necessary to stipulate that self-storage up to 40,000 square feet required a special exception, as had been proposed by Mr. Cropper in his original text amendment application.

Following some discussion, Commissioners Bertino, Bunting, Church, Elder, Lockfaw, Mitrecic, and Purnell introduced the aforementioned legislation as Bill 17-11 (Zoning - Self Storage Centers in the C-2 General Commercial District) and scheduled a public hearing on November 21, 2017 to receive comments on the bill.

Commissioner Bunting closed the legislative session.

The Commissioners answered questions from the press, after which they adjourned to meet again on November 7, 2017.