

Minutes of the County Commissioners of Worcester County, Maryland

December 20, 2016

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 Mitrecic, seconded by Commissioner Elder, 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; Sheriff Reggie Mason; and Colonel Doug Dods of the Sheriff's Office. Topics discussed and actions taken included: hiring Brian Peek as a Transfer Station Attendant for Solid Waste, promoting Barry Morton from Maintenance Worker III to Building Maintenance Mechanic I and posting to fill a vacancy for one Maintenance Worker III for the Maintenance Division of Public Works; acknowledging the hiring of Michael Valerio as a Deputy Sheriff within the Sheriff's Office; meeting with the Sheriff to discuss departmental issues; 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 November 17, 2016 open special session meeting and their December 6, 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 Mitrecic, the Commissioners unanimously awarded the low bid for the installation of a replacement well at a single family home in the Snow Hill area to Daisey's Well Drilling of Frankford, Delaware at a total cost of \$6,368.

Pursuant to the request of Environmental Programs Director Bob Mitchell and upon a motion by Commissioner Bertino, the Commissioners voted 6-1, with Commissioner Elder voting in opposition, to authorize Commission President Bunting to sign the Agreement of Sale between Porter Mill Properties, LLC (Sellers) and the County Commissioners of Worcester

County, Maryland (Buyer) for the purchase of a Rural Legacy Area (RLA) easement on a 63.32-acre property located at 1108 Snow Hill Road in Stockton and more specifically identified on Tax Map 94 as Parcel 175. Mr. Mitchell advised that the County used a “before and after” appraisal method to determine the easement purchase payment of \$1,895 per acre, which the property owners have accepted, with the easement cost to be fully funded by the State, and with no County match required or provided. He further stated that the property could have been subdivided into as many as ten (10) lots, but the owner has agreed to permanently eliminate those rights. Therefore there will only be one home, the existing farmhouse or replacement thereof, permitted on the property after the easement is purchased.

Economic Development Director Merry Mears met with the Commissioners to request their assistance to oppose a petition to the United States Department of Commerce that was proposed by the National Aquarium in Baltimore to designate the Baltimore Canyon off the coast of Ocean as the nation’s first Urban National Marine Sanctuary. Ms. Mears stated that no formal studies have been completed, but the estimated economic impact of commercial and recreational offshore fishing activities in Worcester County is \$100,000,000 per year, with approximately 150 individuals directly employed by no less than seven active marinas that operate in the County and cater to approximately 1,500 boats during the summer season. She also pointed out that Ocean City is home to a number of large recreational fishing tournaments, most notably the White Marlin Open, which is one of the largest fishing tournaments in the world, and she advised that such a designation would have a significantly negative impact on the local economy due to our dependence on the existing commercial and recreational fishing industries. Therefore, she urged the Commissioners to join with the Ocean City Mayor and Council in complete and unconditional opposition of this petition, and in the event that the petition process continues, to request that a formal economic impact study be required to determine the fiscal impact as compared to any potential benefits of this action.

Upon a motion by Commissioner Mitrecic, the Commissioners unanimously agreed to send a letter to Governor Larry Hogan and the Eastern Shore Delegation that mirrors a letter from the Town of Ocean City opposing the petition to designate the Baltimore Canyon as an Urban National Marine Sanctuary.

Pursuant to the request of Recreation and Parks Director Paige Hurley and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved out-of-state travel for Mr. Hurley and Kelly Rados, Special Events & Marketing Coordinator for Recreation and Parks, to attend the National Association of Sports Commission Symposium from March 27-30, 2017 in Sacramento, California at a cost of \$3,150 for registration, flights, lodging and meals. Mr. Hurley stated that this conference, which he has attended for the past two years, is a valuable tool in gaining exposure for Worcester County and booking tournaments, including the Mother’s Day Volleyball tournament, which attracts 200 plus teams to the area. He advised that, as part of Team Maryland, the County receives one free conference registration, and their partners in the Mid-Atlantic Amateur Sports Alliance (MAASA), the Town of Ocean City and Wicomico Recreation and Parks, will be sending representatives to the conference as well.

Pursuant to the request of Mr. Hurley and upon a motion by Commissioner Mitrecic, the

Commissioners unanimously agreed to waive the standard bid process and accept the proposal from Cunningham Recreation of Queenstown, Maryland to purchase four portable Basketball court systems at a cost of \$6,765 each for a total cost of \$27,060. In response to a question by Commissioner Bertino, Mr. Hurley advised that time was of the essence to order and have this equipment in place to accommodate basketball tournaments in March 2017. Mr. Hurley advised that this is a Program Open Space (POS) project, and POS funding would cover this cost.

Pursuant to the request of Mr. Hurley and upon a motion by Commissioner Elder, the Commissioners unanimously approved the purchase of a replacement vehicle for Parks Superintendent Bill Rodriguez by extending bid pricing from Hertrich Fleet Services of Milford, Delaware to purchase an additional 2017 Ram 1500 Regular Cab Long Bed 4x2 pick-up truck without the back rack and LED strobe light for a total cost of \$18,298.

Pursuant to the request of Superintendent of Schools Louis H. Taylor and upon a motion by Commissioner Mitrecic, the Commissioners unanimously agreed to send a letter of support to the State Highway Administration (SHA) supporting a request from the Board of Education (BOE) to install an on-demand signalized crosswalk at U.S. Rte 50 and Seahawk Road to safeguard students who choose to cross this four-lane highway as a result of new retail facilities on the north side of the highway and pending housing development. Commissioner Elder stated that the signal should be active on demand throughout the entire year, including the summer months. The Commissioners concurred.

Colonel Doug Dods and Lieutenant Neil Adams of the Sheriff's Office met with the Commissioners to request authorization to solicit bids for the purchase of two Chevrolet Impala LS models, or equivalent, at an estimated cost of \$24,000 per vehicle for use within the Civil and Investigative Divisions of the Sheriff's Office. Colonel Dods advised that \$57,854 is available through savings within the vehicle replacement budget for these purchases, and if permitted to acquire these vehicles now his office would reduce their FY18 budget request from 10 to eight new replacement vehicles. In response to a question by Commissioner Elder, Lt. Adams advised that the Sheriff's Office prefers to use the same make and model for all vehicles for consistent maintenance and repairs. In response to a question by Commissioner Mitrecic, Lt. Adams advised that the estimated pricing is based on piggybacking on the State bid. Upon a motion by Commissioner Elder, the Commissioners unanimously approved the request and authorized bid specifications to be prepared for this purchase.

The Commissioners reviewed bids received Monday, December 12, 2016, for portable restroom services to be provided for two years at the boat landings, homeowner convenience centers (HOCCs), recreational parks, and the firing range, and acknowledged the apparent low bid from Atlantic Pumping, Inc. of Bishopville, Maryland. Mr. Shannahan recommended opening a timely bid from Pierson's Comfort Group, which was not discovered until after the bid opening, before awarding the contract. Upon a motion by Commissioner Bertino, the Commissioners voted unanimously to open the bid from Pierson's, which was subsequently determined to be higher than the recommended bid from Atlantic Pumping, Inc. Upon a motion by Commissioner Bertino, the Commissioners unanimously awarded the low bid for the

provision of portable restroom services to Atlantic Pumping, Inc. of Bishopville for a period of two years from February 1, 2017 through January 31, 2019, at a total cost of \$39,936 as follows: \$14,976 for Part A, which includes the Worcester County boat landings, Homeowner Convenience Centers and firing range; and \$24,960 for Part B, which includes all passive and active recreational parks.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved bid specifications for General Refuse Collection at 21 County Facilities for two years, from March 1, 2017 through February 28, 2019, with informational pricing to extend the contract for 3-, 4- or 5-years.

The Commissioners conducted a public hearing on the requested five-year Capital Improvement Plan (CIP) FY18 - FY22. Chief Administrative Officer Harold Higgins informed the Commissioners and the public that the CIP is strictly a planning document the County will use in preparing future operating budgets, anticipating the future financial needs of the County and identifying possible funding resources; therefore, a project's inclusion in the CIP does not constitute a guarantee of funding from the County. Rather, each project will be considered and if approved would be refined as details come to light and as projected revenues are known. He then advised that projects totaling \$89,748,633, including \$56.8 million in public school construction projects, are proposed over the five-year period, of which \$9,744,875 or 10.8% is proposed to be funded by the General Fund and \$47,085,062 or 52.4% from general bond funds. The remaining portion would be funded by user fees, grant funds, State match funds, State loans, private donations, or designated funds.

In response to a question by Commissioner Bertino, Public Works Director John Tustin advised that \$400,000 listed as Land Acquisition cost for the Mystic Harbour Wastewater Treatment Plant (WWTP) effluent disposal project is for spray irrigations rights from the Town of Ocean City. In response to additional questions by Commissioner Bertino, Recreation and Parks Director Paige Hurley stated that the County has not received a favorable response from the land owner whose property is adjacent to the Showell Park regarding the County's interest in acquiring this property to enlarge the park; however, his department plans to investigate other opportunities for land acquisition to provide additional recreational opportunities in northern Worcester County, including perhaps an indoor facility.

Commissioner Bunting opened the floor to receive public comment.

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

Upon a motion by Commissioner Bertino, the Commissioners unanimously adopted Resolution No. 16-27 approving and adopting the Worcester County Five-Year Capital Improvement Plan - FY18 to FY22.

Pursuant to the recommendation of Development Review and Permitting (DRP) Director Ed Tudor and upon a motion by Commissioner Mitrecic, the Commissioners unanimously adopted Resolution No. 16-28 amending Liquor License Fees to reflect certain changes in State law to add Classes "H" and "I" license fees for the former holders of Classes "B" and "D" licenses that are restricted to on-premises sales only, since both Classes "B" and "D" license holders may now sell both on and off premises.

Pursuant to the recommendation of Mr. Tudor and upon a motion by Commissioner Mitrecic, the Commissioners unanimously scheduled a public hearing on the revised draft Design Guidelines and Standards for Commercial Uses and the U.S. Rt. 50 Transportation Corridor Plan (Corridor Plan) on January 17, 2017. Mr. Tudor thanked staff and the Design Guidelines Task Force for their review and recommendations for changes to the 2009 Design Guidelines and Standards for Commercial Use and the 2004 Corridor Plan, noting that all of the task force's suggested changes had been included within both documents.

The Commissioners reviewed and discussed various board appointments.

Upon a nomination by the Worcester County Farm Bureau and a motion by Commissioner Elder, the Commissioners unanimously agreed to reappoint Brooks Clayville to the Agricultural Reconciliation Board as one of the Farm Bureau's representatives for an additional four-year term expiring December 31, 2020.

Upon a nomination by the Town of Pocomoke City and a motion by Commissioner Lockfaw, the Commissioners unanimously agreed to reappoint George Tasker as the Town of Pocomoke City's representative on the Solid Waste Advisory Committee for an additional four-year term expiring December 31, 2020.

The Commissioners reviewed a request from Assistant Chief Administrative Officer Kelly Shannahan for out-of-state travel to attend the American Planning Association (APA) National Conference in New York City, NY from May 6-9, 2017 at a total cost for travel, hotel and meals of \$2,889 in order to maintain his Certified Planner status. Following some discussion and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved the request for Mr. Shannahan to attend the conference.

The Commissioners recessed for 15 minutes.

The Commissioners conducted a public hearing at 11:00 am to consider a requested amendment to the Worcester County Water and Sewerage Plan submitted by Hugh Cropper, IV, on behalf of Sun TRS Fort Whaley, LLC for expansion of the Fort Whaley Campground, located on a 72.5-acre parcel at the southeast corner of U.S. Rt. 50 and Dale Road south of the Village of Whaleyville, and more specifically identified on Tax Map 18 as Parcel 20, Lot A. Environmental Programs Director Bob Mitchell reviewed the proposed amendment, which reflects that sanitary services are to be provided by the existing and proposed drainfields along with treatment from a package plant that will be installed on the property, all of which fall within the limits of the approved discharge permit that allows a maximum capacity of 31,500 gallons per day (gpd), as approved by Resolution No. 09-06 adopted on April 21, 2009 for the existing 210 seasonal campsites. Mr. Mitchell stated that the application before them today specifically provides for the development of additional drainfield and related infrastructure improvements to include 63 additional campsites, without a change in the previously approved water and sewerage boundaries; and anticipated infrastructure, including the development of additional drainfield and reserve areas, connecting force/gravity mains and any modifications to the wastewater treatment plant (WWTP) and storage, as required by the Maryland Department of the Environment (MDE). In closing, Mr. Mitchell advised that the Planning Commission gave a favorable recommendation

to the amendment.

Commissioner Bunting opened the floor to receive public comment.

Attorney Hugh Cropper, IV, concurred with the Planning Commission's findings, and he requested the amendment be revised to reflect the addition of 67 new campsites, rather than 63 as outlined in the staff report. Mr. Mitchell stated that he has no objection to the request, as the additional campsites would only add about 400 gpd of wastewater, and noting that the actual number of campsites that can be approved will be based on soil testing results. Given this limitation, County Attorney Maureen Howarth concurred. In response to a question by Commissioner Elder, Mr. Cropper advised that Worcester County is recognized as an under-served area with regard to camping facilities, which is an activity that has been increasing in popularity in recent years. He also noted that additional campsites will likely be in high demand if the long-term plan to eliminate campsites at Assateague Island National Seashore is adopted in the future. Commissioner Mitrecic requested the campground operators look into ways to curb onsite activities pertaining to the H2O international car show weekend in Ocean City, specifically activities that create public safety concerns. In response to questions by Commissioner Mitrecic, Mr. Mitchell advised that such controls could be addressed by the County when issuing special use permits.

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

Upon a motion by Commissioner Elder, the Commissioners unanimously adopted Resolution No. 16-29 as revised to amend the Worcester County Water and Sewerage Plan to expand the Fort Whaley Campground Wastewater Treatment System to serve up to 67 additional campsites for a total of no more than 277 campsites.

Bunky Luffman, the new Governor's Office Intergovernmental Affairs Liaison for the nine Maryland Eastern Shore counties, met with the Commissioners to introduce himself. Mr. Luffman advised that he would be available to help mediate issues that may arise between Worcester County and any of the State agencies. Following light discussion, the Commissioners thanked Mr. Luffman for meeting with them.

The Commissioners recessed for five minutes.

The Commissioners met in legislative session at 11:30 am.

The Commissioners met with Mr. Tudor to review a proposed text amendment application submitted by Barry Mariner that seeks to amend the A-1 and A-2 Agricultural Districts by the addition of a new subparagraph in each under the special exception for wineries that would allow the commercial hosting of certain non-agricultural functions, such as weddings, family reunions, children's parties, and corporate parties, as accessory uses at established wineries. He stated that such uses are authorized currently by a special exception for a transient use, which limits the approval to one year, with a single one-year extension. He advised that the Planning Commission granted the amendment a favorable recommendation, and County staff concluded that an amendment such as this would help make wineries more viable, but also wanted to ensure that the appropriate life safety regulations would still apply. In response to a question by Commissioner Bunting, Mr. Tudor stated that the applicant would still be

responsible for adhering to parking and septic regulations for such activities, noting that no additional requirements would be necessary for events hosting up to 50 participants. However, any event in excess of that number would be subject to additional parking and septic requirements through a site-plan review process, and parking calculations would be based on the gross square footage of the structure. He further confirmed that this amendment would permit these uses to become year-round businesses in the Agricultural Districts; however, agricultural uses would continue to be the protected uses in the A-1 and A-2 districts, regardless of any potential complaints that could arise from someone opting to host a wedding or other special event at such a winery in the A-1 or A-2 district.

Following some discussion, Commissioner Church introduced the aforementioned bill as Bill 16-6 (Zoning - Non-Agricultural Events at Wineries in the A-1 and A-2 Agricultural Districts) and agreed to schedule a public hearing on the bill for February 21, 2017.

The Commissioners met with Mr. Tudor to review a similar proposed text amendment application submitted by Attorney Mark Cropper that seeks to amend the A-1 and A-2 Agricultural Districts by the addition of a new subsection in each that would permit certain non-agricultural functions, such as weddings, family reunions, children's parties, and corporate parties and the like on farms and in agricultural buildings as a special exception. Mr. Tudor stated that currently the only avenue to permit such uses is by a special exception for a transient use, which limits the approval to one year, with a single one-year extension. He advised that the Planning Commission granted the application a favorable recommendation provided necessary limitations and protections are included. Commissioner Bunting expressed concern that such an amendment could seriously infringe upon farmers rights to spread manure and complete other task that may be offensive to those hosting events at nearby farms.

Following some discussion, Commissioner Church introduced the aforementioned bill as Bill 16-7 (Zoning - Commercial Non-Agricultural Functions in Agricultural Structures and Lands in the A-1 and A-2 Agricultural Districts) and agreed to schedule a public hearing on the bill for February 21, 2017.

Commissioner Bunting closed the legislative session.

The Commissioners answered questions from the press, after which they adjourned to meet again on January 3, 2017.