

Minutes of the County Commissioners of Worcester County, Maryland

April 3, 2018

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

Following a motion by Commissioner Lockfaw, seconded by Commissioner Elder, 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), (7) and (10) 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 Ed Tudor, Development Review and Permitting Director. Topics discussed and actions taken included: hiring Brooks Mitchell and promoting Wayne Taylor, Jr. from Maintenance Worker II to fill two Plant Operator Trainee positions for the Water and Wastewater Division of Public Works; discussing public security and emergency plans; receiving legal advice from counsel; and performing administrative functions.

After the closed session, the Commissioners reconvened in open session. Commissioner Purnell 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 March 20, 2018 meeting as presented.

The Commissioners presented a proclamation to Housing Program Administrator Jo Ellen Bynum recognizing April as Fair Housing Month in Worcester County to celebrate the passage of the Fair Housing Act of 1968, which eliminates housing discrimination and promotes economic opportunity and diverse communities through public understanding, recognizing that inclusive communities are vibrant communities, which provide residents of all backgrounds with access to quality schools and increased opportunities for self-sufficiency.

The Commissioners met with Ms. 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 Bunting, the Commissioners unanimously agreed to irrevocably transfer Worcester County's full \$1,833,850 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 2018 allocation of the Maryland State Ceiling for use under the Maryland Mortgage Program and the Maryland Home Credit Program.

Coastal Association of REALTORS (CAR) Board of Directors President-Elect Bernie Flax and Government and Public Affairs Director Sarah Rayne presented the Commissioners with the Worcester County Real Estate Market Report, which is derived from the CAR Multiple Listing Service and outlines the state of the real estate market in Worcester County, including the municipalities therein (Ocean City, Berlin, Snow Hill, and Pocomoke) and Ocean Pines, as well as the entire Tri-County Region for each of the past five years, as well as data from 10 years ago in 2007. Ms. Flax advised that the economy is doing well, and mortgage rates have increased to 4.5% to 4.7% depending on the lender and are anticipated to increase to 5%, all of which remain historically low. She advised that inventory is down across the counties, state, and nationwide, and sales are up, making it a good time to be a seller, with the total volume of sales higher than pre-recession volume in many areas. For Worcester County and its municipalities, she stated that inventory continues to decline every year, with home prices increasing each year due to limited inventory, with sale prices in Ocean City significantly higher than any other municipality in the County. She thanked the Commissioners for opposing a proposal to eliminate the Ocean Pines area from eligibility in the United States Department of Agriculture (USDA) Rural Development Housing Program. In response to a question by Commissioner Bertino, Ms. Flax advised that, based on local responses, the USDA resolved to continue including the Ocean Pines area in the housing loan program.

Environmental Programs Director Bob Mitchell met with the Commissioners to discuss a request to relocate a lane and related forestry issues, to include limited tree removal on a property owned by Dan and Laura Holland at 3847 Whitesburg Road and identified on Tax Map 69 as Parcel 31, which is encumbered by a Dividing Creek Rural Legacy Area (RLA) conservation easement. On February 21, 2017, the Commissioners approved the Holland's request to relocate the existing residence away from the family farm. Mr. Mitchell explained that the proposed lane relocation conforms with the conservation values outlined in the easement deed, and after the relocation, the site of the existing lane would return to farm production. He further advised that the forestry issue is routine and would be better handled administratively. Therefore, he requested the Commissioner to allow Environmental Programs staff and County Attorney Maureen Howarth to handle this and other future routine forestry issues administratively. In response to a question by Commissioner Bertino, Mr. Mitchell defined routine issues as minor regulatory issues related to compliance between property owners and the County upon review and approval by the County Attorney and County Administration.

Upon a motion by Commissioner Elder, the Commissioners unanimously approved the lane relocation and authorized this and future routine forestry issues to be resolved by County staff administratively.

The Commissioners met with Assistant Chief Administrative Officer and Sewer Committee representative Kelly Shannahan to review a request from Attorney Hugh Cropper, IV

on behalf of Eugene R. Parker, Jr., Irrevocable Trust, for the allocation of one equivalent dwelling unit (EDU) of sanitary service from the Mystic Harbour Sanitary Service Area (SSA), to serve an existing residential structure used as an office, which is currently served by a septic system, and which is identified on Tax Map 26 as Parcel 274, Lot 3B. Mr. Shannahan advised that the 1.84-acre property is zoned C-1 Neighborhood Commercial and is designated S-1 (designated for sewer service within 2 years) in the County Water and Sewerage Plan, though this designation does not guarantee any service or obligate the provision of services in that time frame. He further stated that the request supports the County's goal of removing septic systems and serving existing development by public sewer systems, when more environmentally-sensitive public facilities are available.

Upon a motion by Commissioner Bunting, the Commissioners unanimously approved the request as presented and agreed to allocate one EDU of sewer service from the 53 Commercial EDUs available within Area 1 (North) of the Mystic Harbour SSA.

The Commissioners met with Mr. Shannahan to review a request from Attorney Hugh Cropper, IV on behalf of L & B Ocean City, LLC for the allocation of four EDUs of sanitary service from the Mystic Harbour SSA, to serve two adjacent parcels of land improved with a former tennis center, which is now used as a warehouse, and a roadside stand, both of which are currently served by a septic system. These properties, which are identified on Tax Map 26 as Parcel 274, Lots 1A and 1B, are zoned C-1 Neighborhood Commercial and designated S-1 (designated for sewer service within 2 years) in the County Water and Sewerage Plan. Mr. Shannahan advised that the Sewer Committee reviewed the request and based upon design flow estimates concluded that for the combined use of both the warehouse and roadside stand only two EDUs would be necessary, but if the uses were considered separately two EDUs are needed to serve the warehouse, while one EDU is needed to serve the roadside stand. He stated that, until an approved plan is provided for expanded use of the property, the request for four EDUs is not warranted in accordance with the County EDU Allocation Policy. He concluded that the request supports the County's goal of removing septic systems and serving existing development by public sewer systems, when more environmentally-sensitive public facilities are available, and reviewed the available options pertaining to this request.

Upon a motion by Commissioner Bunting, the Commissioners unanimously approved Option 2, as outlined by the Sewer Committee, to allocate three EDUs of sewer service from the 52 Commercial EDUs available within Area 1 (North) of the Mystic Harbour SSA, with two EDUs to serve the warehouse and one EDU to serve the roadside stand.

Pursuant to the recommendation of Public Works Director John Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved bid specifications for the purchase of one current-year cab tractor farm type off road for use within the Solid Waste Division of Public Works, with funds of \$85,000 available for this equipment within the FY18 budget.

Mr. Tustin advised that the preliminary 2017 Maryland Recycling Act Tonnage Report indicates that the County has a 33.16% recycling rate, which is the highest rate in at least the past decade, when the next highest rates were 29% for 2013 and 24.5% for 2016. Mr. Tustin attributed the higher rate this year to the initiative of Recycling Coordinator Mike McClung, who

has attracted additional private businesses to participate in the County's recycling program and to cease the costly recycling of televisions and monitors and instead landfill these items, saving the County approximately \$60,000 annually.

In response to concerns raised by Commissioner Elder regarding the dumping of household trash at the Homeowner Convenience Center (HOCC) in Whaleyville, Mr. Tustin confirmed that household waste accounts for as much as 40% of the materials being dumped in the HOCCs. He stated that Wicomico County has recently installed cameras at these recycling facilities in an attempt to discourage dumping of household waste, and he agreed to contact them to determine the expense and rate the success of their efforts to perhaps duplicate in Worcester County.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously awarded the low bid for furnishing and applying approximately 334,319 square yards of chip seal to approximately 31.67 miles of County roads to Russell Standard Corporation of Mars, Pennsylvania at a cost of \$1.41 per square yard for a total estimated cost of \$471,389.79.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously rejected the sole bid for crack sealing the asphalt-wearing surface on various County-wide bridges from Pavement Contracting Services of Glen Dale, Maryland at a total bid price of \$47,777.77, which was much higher than anticipated.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously accepted the proposal from Chesapeake Paving & Sealing, Inc. of Salisbury, Maryland for crack sealing approximately 5,899 linear feet of the asphalt-wearing surface on 14 bridges throughout the County at a total lump-sum cost of \$17,697. Mr. Tustin advised that Chesapeake Paving did not bid this project as originally specified due to their inability to supply a mastic mixer, as required in the bid specifications under guidelines of the State Highway Administration (SHA); however, Chesapeake Paving has the ability to perform this task using a melting pot, providing the same quality product used on the Ocean City Airport runways in 2017.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners voted 6-1, with Commissioner Bertino voting in opposition, to waive the formal bid process and piggyback off the fall bid from Lane Enterprises, Inc. of Bealeton, Virginia (which was awarded the pipe bid at the County Commissioners' meeting on November 7, 2017) for the purchase of riveted galvanized steel corrugated metal pipe or helically corrugated pipe with two annular corrugations on each end of pipe and HDPE double-wall plastic pipe at a total cost of \$13,687.18. In response to a question by Commissioner Bertino, Mr. Tustin confirmed that the pipe order is needed to replenish the diminishing supply.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously accepted the proposal from Davis, Bowen & Friedel, Inc. of Salisbury, Maryland for professional engineering services for design of the Bayside Road Bridge replacement project at a total fixed fee of \$16,000. Mr. Tustin stated that the consultant

recommended replacing the 1972 bridge, the oldest County bridge, which has a sufficiency rating of 27.9. He advised that funds are available within the FY18 budget for this purpose.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously awarded the low bid for sewer cleaning and inspection services in the West Ocean City (WOC) Sanitary Service Area (SSA) to Mobile Dredging & Video Pipe, Inc. of Beltsville, Maryland at a total cost of \$23,955.35.

Pursuant to the request of Public Works Deputy Director John Ross and upon a motion by Commissioner Church, the Commissioners unanimously approved the Amendment to Engineering Services Contract for Mystic Harbour Effluent Disposal Project, with Davis, Bowen, and Friedel, for the final phase of this project for the following items: modifying the discharge of effluent into the golf course irrigation system to reuse a portion of on-site piping for an additional cost of \$3,200; electrical design services to power and incorporate the pump station into the supervisory control and data acquisition (SCADA) system for discharge, which was not a need originally envisioned, at an additional cost of \$25,400; permitting services at an additional cost of \$10,184; assistance in project bidding at an additional cost of \$8,000; design modifications for Pump Station No. 4 at a total cost of \$22,500; assisting designer with the golf course irrigation system design at an additional cost of \$9,900; obtaining the discharge permit from the Maryland Department of the Environment (MDE) at an additional cost of \$6,000; contract administration and inspection services for the final pipeline interconnection construction work at an additional cost of \$18,000; and onsite construction inspection of pipeline connections and pumping system at an additional cost of \$12,000. Mr. Ross advised that, even at the new project cost of \$230,035, the project is still below the project budget of \$300,000 for engineering services. In response to a question by Commissioner Bertino, Mr. Ross advised that County staff included provisions within the original agreement, allowing them to evaluate the need for pumping, and as the project progressed, it became clear that the pump system rather than the originally-proposed hydraulics system was the correct option for this project.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Bertino, the Commissioners unanimously awarded the proposal from Gipe Associates, Inc. of Easton, Maryland at a total lump sum cost of \$5,500, as well as reimbursement for direct, out-of-pocket expenses at cost plus 10% for items such as travel, overnight/messenger deliveries, outside reproductions, etc, as required, to perform mechanical engineering services and feasibility analysis of the two heating, ventilation, and air conditioning (HVAC) rooftop units (RTU) in the Worcester County Recreation Center (WCRC) fitness arena due to recent operational issues and improper mechanical design at the time of construction. Mr. Tustin reviewed the current problems, which include the following: the original mechanical design set a cooling point of 80 degrees Fahrenheit, rather than the 69-72 degree cooling point at which it is operated; humidity is controlled by the RTU gas-fired furnaces rather than a dedicated dehumidification unit designed to meet the athletic use of the space; the RTU's CO2 control does not meet current American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) indoor air quality standards; there is extensive condenser coil corrosion; and the building envelope leaks. He advised that funds of \$200,000 are available within the FY18 budget to complete this project.

In response to a question by Commissioner Bertino, Mr. Tustin confirmed that the air conditioning units are constantly running and constantly breaking down. Furthermore, the original architect and mechanical engineering firm that designed the WCRC are no longer in business. Mr. Tustin stated that the County staff is now more involved in design issues and oversight of construction projects to assure these types of issues do not occur with County buildings in the future.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Bertino, the Commissioners unanimously approved bid specifications for the Ocean Pines Branch Library Renovation project to be managed by The Whiting-Turner Contracting Company under a guaranteed maximum price (GMP) contract with the company.

The Commissioners met with Development Review and Permitting (DRP) Director Ed Tudor to revisit their prior discussion on March 20, 2018 regarding a proposal from the Planning Commission for the Commissioners to consider a comprehensive sectional rezoning of properties located west of MD Rt. 589 opposite the Ocean Downs Casino. This recommendation stems from receipt of five applications to rezone two properties located directly on MD Rt. 589 and three that front McAllister Road, one of which also fronts Griffin Road, from E-1 Estate District to C-2 General Commercial District or, alternatively, C-1 Neighborhood Commercial District. At that time, the Commissioners took no action on the proposal. Mr. Tudor summarized the history leading up to the request to consider a comprehensive sectional rezoning of the area rather than considering the five applications individually.

In response to questions by Commissioner Bertino, Mr. Tudor confirmed that the petitioned properties have been posted, but staff could notify the affected property owners if the Commissioners wish to do so. He further advised that current residential uses on properties that may be rezoned from residential to commercial would be considered nonconforming uses. Thus the Board of Zoning Appeals would have to approve any changes property owners plan to make to their residential properties if zoned commercial. Furthermore, if the entire area was recommended for rezoning to commercial, and the Commissioners approved such a recommendation, that would affect property values and taxes. He concluded that the impacts to traffic on MD Rt. 589 if the properties are zoned commercial could not be determined at this time. He also stated that public water and sewer service is not currently available to the properties, but would likely be requested for extension by property owners.

Upon a motion by Commissioner Bunting, the Commissioners voted 6-1, with Commissioner Bertino voting in opposition, to approve the Planning Commission's recommendation to review and provide recommendations to the Commissioners for the comprehensive reclassification of the properties located to the west of MD Rt. 589 (Racetrack Road), south of Turville Creek, and north of Grays Comer Road, which are currently zoned E-1 Estate District and A-1 Agricultural District.

The Commissioners reviewed and discussed various board appointments.

Upon a nomination by Commissioner Mitrecic, the Commissioners unanimously agreed to appoint James Covington and Bonita Ann Gisriel to the Commission on Aging for three-year terms each expiring September 30, 2020, to replace George "Tad" Pruitt and Bonnie C. Caudell, respectively, whose terms had expired.

Commissioner Mitrecic requested that staff solicit volunteers to serve on the boards with remaining vacancies by way of a press release in local newspapers.

Pursuant to the request of Budget Officer Kathy Whited and upon a motion by Commissioner Church, the Commissioners unanimously approved the required advertisement entitled "Notice of Public Hearing FY19 Requested Operating Budgets," which will run in area newspapers the weeks of April 19 and April 26, 2018 advising the public that the budget hearing will take place on Tuesday, May 1, 2018 at 7:00 p.m. at Snow Hill High School (SHHS).

Commissioner Church originally made a motion to conduct the public hearing on the FY19 Requested Operating Budgets at Stephen Decatur High School (SDHS) rather than SHHS; however, immediately thereafter, he amended that motion to include conducting the public hearing at SHHS rather than SDHS, as appropriate advance notification had not been sought to secure that location on the proposed date. Assistant Chief Administrative Officer Kelly Shannahan advised that the SHHS has traditionally served as the site of the annual public hearing on the budget due to its central location in the County.

In response to requests raised by Commissioners Bunting, Church, and Mitrecic to alternate the site of the public hearing every other year for ease of access to residents in both the south and north ends of the County, Chief Administrative Officer Harold Higgins agreed to present the Commissioners with options later this fall to alternate the meeting site for the public hearing on the requested FY20 Operating Budget next May 7, 2019 at either SHHS or SDHS for their consideration ahead of next year's budget deliberations.

The Commissioners met with Mr. Higgins to review the proposed FY19 Constant Yield Advertisement, which has already been approved by the Maryland Department of Assessments and Taxation, to be advertised in area newspapers during the week of April 18, 2018. Mr. Higgins explained that, in accordance with State law, the notice states that, for the tax year beginning July 1, 2018, the estimated real property assessable base will increase by 1.0%, from \$15,020,690,483 to \$15,166,603,186, and if the County maintains the current tax rate of \$0.835 per \$100 of assessment, real property tax revenues will increase by \$1,218,370 or 1%. The notice states that, to fully offset the effect of increasing assessments, the real property tax rate should be reduced to \$0.8270 per \$100 of assessment, the Constant Yield Tax Rate (CYTR). The County is considering not reducing its real property tax rate enough to fully offset increasing assessments and instead proposes to adopt a real property tax rate of \$0.886 per \$100 of assessment. This tax rate is 7.1% higher than the CYTR and will generate an additional \$8,948,296 in real property tax revenues.

Mr. Higgins advised that the County is mandated by the State to run the advertisement as written, which reflects the tax rate if the Commissioners were to fully fund the requested operating budget. However, he stated that the budget will be balanced by increased revenues, decreased expenses or a combination of the two. He advised that the public hearing on the CYTR will take place during the FY19 Budget Hearing at 7:00 p.m. on May 1, 2018 at SHHS.

Upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved the FY19 Constant Yield advertisement as required by State law.

The Commissioners answered questions from the press, after which they adjourned for lunch and to conduct a work session at 1:00 p.m.

After the work session, the Commissioners adjourned to meet again on April 17, 2018.