

Minutes of the County Commissioners of Worcester County, Maryland

September 4, 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 Bertino, 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), (7), and (8) 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; and Stacey Norton, Human Resources Director. Topics discussed and actions taken included: posting to fill vacancies for a Maintenance Worker II for Recreation and Parks and a Landfill Operator I for the Solid Waste Division of Public Works; acknowledging the promotion of Alicia Blake from part-time Library Services Assistant I to full-time Library Services Assistant I and the hiring of Judith Cich as a part-time Library Services Assistant I within the County Library, and Scott A. Nichols, John C. Massey, and Bryn M. Blackburn as School Resource Deputies within the Sheriff's Office; discussing pending litigation and 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 afternoon closed session on August 21, 2018 and the morning closed session on September 4, 2018.

The Commissioners reviewed and approved the open and closed session minutes of their August 21, 2018 meeting as presented.

Pursuant to the request of Superintendent of Schools Louis H. Taylor and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved inter-category budget transfers from Instructional Salaries (\$550,595) to offset overages in Special Education (\$302,494), Student Transportation (\$218,234), and Maintenance of Plant (\$29,867) for the fiscal year ending June 30, 2018 to address increased instructional software, special education, transportation and maintenance costs experienced in FY18.

Pursuant to the recommendation of Emergency Services Director Fred Webster and upon a motion by Commissioner Church, the Commissioners unanimously authorized Commission President Purnell to sign the Code RED Mass Notification System Contract Renewal from

ONSOLVE of Ormond Beach, Florida for the provision of the Code RED Emergency Notification System for Emergency Services at the same annual cost of \$12,500 for a three-year license for a total cost of \$37,500. Mr. Webster explained that the system has been successfully utilized to distribute weather alerts and other notifications to County residents and others who subscribe to this service, which is free to the public.

Mr. Webster and Emergency Services Assistant Director James Hamilton provided the Commissioners with a P25 Radio System status update. Mr. Webster stated that he had received a report regarding one minor transmission issue with a field radio, which was likely caused by a roaming issue, and while the issue quickly resolved itself, they anticipate future roaming issues will be resolved through a software update. He further advised that the Mystic Harbour tower site is now up and running, but is still being tested by Harris to ensure that there are no problems with transmissions between the Mystic and Central site towers. With regard to system testing, Mr. Webster advised that Harris and County staff, in consultation with Federal Engineering (FE), will begin drive testing to confirm the effectiveness of the radio system immediately, with a goal to complete testing by September 7, 2018.

In response to a question by Commissioner Elder, Mr. Hamilton stated that radio coverage is good in the rural areas of the County, with the exception of certain areas in the Pocomoke Forest, but that equipment has been installed on the fire tower in the Nassawango area to help improve transmission. He further stated that a full report of coverage would be reported, once the drive testing is completed on September 7 and the data analyzed by Harris, County staff, and FE. The Commissioners thanked Mr. Webster and Mr. Hamilton for their report.

The Commissioners conducted a public hearing to obtain the views of citizens for an application the Commissioners propose to submit to the Maryland Community Development Block Grant (CDBG) Program for a grant of \$282,225 to fund the Diakonia Emergency Housing Renovation Project. A copy of the CDBG grant application was available for public review during the public hearing. Commissioner Church recused himself due to a potential conflict of interests. Senior Budget Accountant Kim Reynolds stated that grant funds would require a County in-kind match of \$13,000 and a Diakonia match of \$94,000 in cash and in-kind contributions. She further advised that Diakonia officials are seeking a letter of grant support from the County.

Commissioner Purnell opened the floor to receive public comment.

Allyson Bernard Church, President of the Diakonia Board of Directors, thanked the Commissioners for their ongoing support for the shelter and asked them to support this CDBG application, noting that the funds would be used to cover costs associated with major health and safety repairs and upgrades to Diakonia's emergency housing facilities.

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

Upon a motion by Commissioner Mitrecic, the Commissioners voted 6-0-1, with Commissioner Church abstaining from the vote, to adopt Resolution No. 18-22, authorizing the filing of a CDBG Application to fund the Diakonia Emergency Housing Renovation Project, and to authorize Commission President Purnell to sign a letter of support, as well as any and all documents required for the submission of the application for the grant.

Economic Development Deputy Director Kathryn Gordon presented an Economic Development Progress Report, which included the following: assisting eight County businesses

to secure \$1.1 million in loan funding to start, expand, purchase equipment, improve, and/or renovate their businesses, with assistance currently being provided to help another seven businesses to secure \$7.2 million for similar activities; hosting workshops with the Small Business Development Center at Salisbury University and the Department of General Services to connect the local business community with resources to help them start or grow their companies; offering programs and services to help Pocomoke City officials revitalize the downtown and surrounding commercial areas; and partnering with the Department of Housing and Community Development (DHCD) to offer a seminar for business owners, realtors, and developers to identify tax incentives and other investment opportunities available to them within Lower Eastern Shore counties, within designated Maryland Opportunity Zones. Ms. Gordon noted that three of the 149 Maryland Opportunity Zones are located in Berlin, Snow Hill, and downtown Ocean City.

Commissioner Bertino thanked Ms. Gordon for her work, noting that he attended a ribbon cutting recently in which the owner had learned about and taken advantage of opportunities offered at a recent Economic Development workshop. In response to a question by Commissioner Bertino, Ms. Gordon explained that Pocomoke City was not designated as a Maryland Opportunity Zone, since it did not meet the criteria for inclusion under the current formula.

Pursuant to the request of Michael Pennington, Executive Director of the Tri-County Council (TCC) for the Lower Eastern Shore of Maryland and upon a motion by Commissioner Bertino, the Commissioners unanimously agreed to contact chambers of commerce located within Worcester County to solicit interest from their members to volunteer to fill two vacancies on the Lower Shore Workforce Development Board.

Pursuant to the request of County Engineer Bill Bradshaw and Warden Donna Bounds and upon a motion by Commissioner Bertino, the Commissioners unanimously approved bid specifications for the County Jail HVAC (heating, ventilating, and air conditioning) and Electrical Renovations Project, with bids to be reviewed in October 2018 for installation to take place in 2019. Mr. Bradshaw explained that much of the equipment to be replaced was installed in the 1980s and is now failing.

The Commissioners met with Mr. Tustin to review bid specifications for the purchase of 32 vehicles, as approved in the FY19 County Operating Budget. Upon a motion by Commissioner Lockfaw, as amended at the request of Commissioner Mitrecic to require all Sheriff's vehicles to be the standard color, the Commissioners unanimously approved bid specifications for the following vehicles: one ½-ton 4x4 full-size pickup truck and one standard sedan for Human Resources; three ½-ton 4x2 full-size pickup trucks for Development Review and Permitting (DRP); one 1-ton 4x2 full-size cargo van for the County Jail; one ½-ton 4x4 extended cab pickup truck for the Maintenance Division, two ¾-ton 4x4 full-size pickup trucks for the Roads Division, three compact extended cab 4x2 pickup trucks for the Mosquito Control Division, and five ½-ton 4x2 full-size pickup trucks for the Water and Wastewater Division of Public Works; one SUV midsize 4x4 and two ½-ton 4x2 full-size pickup trucks for the Recreation Division, and two ½-ton 4x2 full-size pickup trucks for the Parks Division of Recreation and Parks; and one full-size, four-door sedan, two full-size, 4x4, unmarked SUVs

with police packages (to be bid in blue only), three full-size, 4x4 SUVs with police packages, five full-size 4x2 SUVs with police packages, and two ½-ton double-cab 4x4 pickup trucks within the Sheriff's Office.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved bid specifications for the purchase of one motor grader within the Roads Division of Public Works, with funds of \$385,000 available within the FY19 budget for this purchase.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously approved bid specifications for the purchase of two dump trucks within the Roads Division of Public Works, with \$310,860 available within the FY19 budget for this purchase.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously approved bid specifications for the purchase of corrugated metal pipe to be utilized by the Roads Division of Public Works, with \$40,000 available within the FY19 budget for this purchase.

Public Works Deputy Director John Ross presented a staff report and recommendations from the Water and Sewer Committee regarding the Commissioners' directive on February 23, 2018 to investigate the potential to expand capacity at the Mystic Harbour Wastewater Treatment Plant (WWTP), which has an existing capacity of 450,000 gallons per day (GPD). This includes 250,000 GPD, which are reserved for the original Mystic Harbour customers, and 200,000 GPD, which created an additional 666 equivalent dwelling units (EDUs) to serve new customers at 300 GPD per EDU. Mr. Ross stated that 360 EDUs for new customers have already been allocated, and at the current rate of sale, the remaining EDUs will likely be allocated within the next five to six years. He advised that the WWTP was designed with an empty fourth treatment tank, so the facility could easily be expanded by an additional 150,000 GPD. He identified the necessary construction and equipment that would be required for WWTP expansion at a total estimated cost of \$2.5 million. However, he advised that it will be difficult to locate the additional effluent disposal sites and to resolve the ongoing issue with disposal of plant solids to expand the WWTP. Both Mr. Ross and Environmental Programs Director Bob Mitchell reviewed the status of potential disposal sites along the MD Rt. 611 corridor.

Commissioner Church stated that it is critical to expand the WWTP to accommodate economic growth in the area. In response to a question by Commissioner Church, Mr. Ross confirmed that once an effluent disposal site can be identified, it would still take four to six years to complete planning and permitting activities required by the Maryland Department of the Environment (MDE) to expand the WWTP.

Following some discussion and upon a motion by Commissioner Church, the Commissioners unanimously directed staff to move forward with exploring the possible expansion of the Mystic Harbour WWTP, including investigating the potential of certain sites for effluent disposal to facilitate the expansion by 150,000 GPD to meet the future need for public sewer service in this service area.

The Commissioners met with Development Review and Permitting (DRP) Director Ed Tudor to review the nuisance abatement request for an abandoned house at 13412 Madison Avenue in West Ocean City and identified on Tax Map 5 as Parcel 1, Lot 146. Mr. Tudor stated that the specific nature of the nuisance has previously included the growth of grass and weeds beyond the one-foot Code limit, but now includes a hole in the roof of the 60-year-old, one-story, concrete-block cottage, which though unattended did not appear to be beyond reasonable hope of rehabilitation or restoration until recently. He stated that DRP staff have cut the grass several times over the last few years, after notices to property owners Raymond A. and E. Jeanette Quillen, both of whom are deceased, went unanswered or undelivered by their surviving sons when delivered to the Port Penn, Delaware address listed on the tax rolls. He noted that efforts by DRP staff to locate current addresses for the two sons have been unsuccessful; however, the property taxes have been paid. He stated that, if the Commissioners are inclined to find that the structure is beyond any reasonable hope of rehabilitation or restoration and therefore constitutes a public nuisance in accordance with the Code, he recommended that the Order of Abatement Notice to be Heard not exceed the minimum posting requirement, which is 15 days, given the length of time the property has been in its current state.

Commissioner Mitrecic stated that the property has been a blight on the community since he took office in 2014. Upon a motion by Commissioner Mitrecic, the Commissioners unanimously declared the unattended and uninhabitable structure on the property to be beyond reasonable hope of rehabilitation or restoration, which constitutes a nuisance and ordered the abatement of such nuisance pursuant to Section PH 1-102 of the Public Health Article of the County Code and specifically to remove the structure if not repaired.

The Commissioners recessed until 11:00 a.m.

The Commissioners conducted a public hearing on Rezoning Case No. 419, for an application submitted by Attorney Hugh Cropper, IV, on behalf of Cedar Mountain Farm, LLC and Mallard Landing, LLC, property owners, which seeks to rezone 4.7 acres of land located on the northwesterly side of Market Street (Business U.S. Rt. 113) to the west of U.S. Rt. 113 outside the Snow Hill Corporate limits, and more specifically identified on Tax Map 55 as Part of Parcel 22 in the Second Tax District of Worcester County, Maryland, from A-1 Agricultural District to C-2 General Commercial District. Staff members present at the hearing were Development Review and Permitting Director (DRP) Ed Tudor and DRP Deputy Director Phyllis Wimbrow. Ms. Howarth swore in those individuals who planned to give testimony during the hearing. Mr. Tudor reviewed the application, which received a favorable recommendation from the County Planning Commission. Ms. Wimbrow entered the Planning Commission's Findings of Fact into the record and stated that, according to the application for rezoning, the applicants' claim as the basis for their rezoning request was that there was a mistake in the existing zoning rather than a change in the character of the neighborhood. She stated that the petitioned area, which was reduced from 6 acres to 4.7 acres by Mr. Cropper upon learning that 1.3 acres of the property were located within the Chesapeake Bay Critical Area, was zoned M-1 Light Industrial District in the 1960s, and that zoning was retained during the 1992 Comprehensive Rezoning. However, the property in its entirety was rezoned A-1 during the 2009 Comprehensive Rezoning, and almost all adjoining and nearby properties are also zoned A-1, while environmentally-sensitive areas to the west and north are zoned RP Resource

Protection District. Furthermore, a parcel of land on the opposite side of Market Street from the petitioned area, adjacent to the McDonald's, and the Preston Auto Body facility to the north of the petitioned area are zoned C-2. She advised that the property is designated W-6 and S-6 (no planned service) in the Water and Sewer Plan, and Environmental Programs records indicate that the property is improved with existing individual well and septic, with a capacity of 600 GPD. Furthermore, the property is accessible via a State-owned and maintained roadway. Given that the existing structure on the property was originally constructed as an office at the time the property was zoned M-1 and then subsequently used as a retail liquor store, the Planning Commission found that it was a mistake to have placed the petitioned area in the A-1 designation during the 2009 Comprehensive Rezoning because that structure was then made a non-confirming use. Based on this review, the Planning Commission concluded that a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan and gave a favorable recommendation to Rezoning Case No. 419, seeking a rezoning of the petitioned area from A-1 to C-2.

Mr. Cropper, attorney for the applicant, concurred with the Planning Commission and staff's assessment, advised that the basis for the rezoning is that there was a mistake, albeit a good faith mistake, in the existing zoning, as evidenced by the operation of a County-owned retail liquor store and formerly other commercial uses for a number of years. He pointed out that the commercial land located on the opposite side of Market Street within the incorporated limits of Snow Hill include a Dollar General, pharmacy, convenience store, two restaurants, a McDonald's, and a parcel of land located to the east of the existing McDonald's restaurant and within the County's jurisdiction is zoned C-2 and serves as the County base of operations for the State Highway Administration (SHA). Therefore, he asked the Commissioners to support the Planning Commission's Findings of Fact and recommendation for rezoning.

Environmental Consultant Chris McCabe testified that the petitioned area has served commercial uses continuously since it first housed the office for Holly Farms and until recently as a retail liquor store by the Liquor Control Board (LCB) and the County's Department of Liquor Control (DLC). He stated that it had been a mistake to rezone the property A-1, and it was quite appropriate to rectify that mistake by rezoning the property C-2.

Professional Land Surveyor Gregory P. Wilkins stated that the petitioned area is shown on the Comprehensive Plan's Land Use Map as being within the Agricultural Land Use Category, but that this land use map uses a broad-brush approach and should not be used as a specific parcel-layer analysis. He confirmed that C-2 is more suitable to this site, which has been used exclusively for commercial purposes since 1987.

Ann Northam, of Salisbury and owner of an adjacent property, stated that rezoning the property to C-2 would have the undesired effect of changing the character of the neighborhood and increasing traffic flow in the area, which she stated is not responsible growth. She asked the Commissioners to postpone granting the requested rezoning until the SHA installs a traffic signal at the intersection of Market Street and U.S. Rt. 113 at the applicant's expense.

Daniel Hart of Snow Hill stated that the property owner should not be required to pay to have a traffic study completed before the Commissioners agree to rezone the property.

Laurel Campbell of Snow Hill stated that the runoff from this property causes flooding in her neighborhood, and she expressed concern that any additional hard-surface paving on that site would exacerbate the situation.

Fred Shultz of Snow Hill shared Ms. Campbell's concerns with regard to flooding, and he

also voiced concern that the addition of a large commercial operation would increase congestion on Market Street. In response, Mr. Cropper stated that, with regard to future traffic patterns, the Planning Commission found that “there will be no negative impact to the transportation patterns arising from the proposed rezoning of the petitioned area.” He further noted that, while he is not at liberty to divulge any potential future use of this property, any large commercial use must adhere to the County site plan standards and be approved by the Planning Commission.

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

Upon a motion by Commissioner Bunting, the Commissioners unanimously adopted the Planning Commission’s Findings of Fact and approved the rezoning from A-1 to C-2, based on a mistake in the existing zoning since the last comprehensive rezoning on November 3, 2009.

The Commissioners answered questions from the press, after which they adjourned to meet again on September 18, 2018.