

## Minutes of the County Commissioners of Worcester County, Maryland

May 19, 2020

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

Due to the current COVID-19 pandemic, this meeting took place virtually via Zoom for which the live stream could be viewed at <https://media.swagit.com/zoom/worcestercountymd>.

At 9:04 a.m. Commissioner Mitrecic called the meeting to order and announced the topics discussed during the April 21, 2020 closed session, which took place immediately following the April 21 open session.

The Commissioners reviewed and approved the open session minutes of their April 14 and 21, 2019 meetings and the open and closed session minutes of their May 5, 2020 meeting as presented. Commissioners Elder and Bunting were temporarily absent at the beginning of the meeting.

The Commissioners presented a commendation to retiring Tourism Director Lisa Challenger, recognizing her 31 years of dedicated service to Worcester County and highlighting the impact her contributions have had on tourism locally, regionally, and statewide.

Commissioners Bunting and Elder arrived at the meeting.

Pursuant to the request of incoming Tourism Director Melanie Pursel and upon a motion by Commissioner Nordstrom, the Commissioners unanimously authorized Commission President Mitrecic to sign the Maryland Tourism Grant Modification Agreement to extend the FY20 County Tourism Cooperative Marketing Grant Agreement between the Maryland Department of Commerce, acting through the Maryland Tourism Development Board (MTDB) and the County Commissioners of Worcester County, Maryland from July 1, 2020 to September 30, 2020. Ms. Pursel explained that this will allow the County to spend remaining funds of \$53,728 for marketing purposes, as the MTDB has determined that many destinations opted to suspend marketing efforts during the COVID-19 pandemic due to Governor Larry Hogan's stay-at-home order.

In response to a question by Commissioner Mitrecic, Tom Perlozzo, Director of Recreation, Parks, Tourism, and Economic Development, advised that basketball courts are currently closed statewide, but will be permitted to reopen during phase two of the Maryland Roadmap to Recovery.

Pursuant to the request of Senior Budget Accountant Kim Reynolds and upon a motion by Commissioner Nordstrom, the Commissioners unanimously authorized Commission President Mitrecic to sign the Governor's Office of Crime Control and Prevention FY21 Grant Application for funds of \$50,615 for the grant-funded position of Heroin Coordinator within the Sheriff's Office. This will allow the Criminal Enforcement Team to maintain the coordination of entering all necessary data for drug investigations, drug seizures, drug arrests, heroin and opioid overdoses, and other drug-related investigation activities.

Pursuant to the request of Ms. Reynolds and upon a motion by Commissioner Bertino, the Commissioners unanimously authorized Commission President Mitrecic to sign the 2020 Sub-Recipient Grant Agreement administered by the Maryland Emergency Management Agency (MEMA) for the Department of Homeland Security, awarding Worcester County Emergency Services a total of \$74,406.86 to provide two-year matching funds toward the Emergency Services Director's salary from October 1, 2019 through September 30, 2021.

Pursuant to the request of Ms. Reynolds and upon a motion by Commissioner Nordstrom, the Commissioners unanimously agreed to schedule a public hearing on June 2, 2020 to receive public comment on a proposed Community Development Block Grant (CDBG) that can be utilized for senior services, food programs, and homeless assistance to assist the Commission on Aging, Diakonia, Inc., and Samaritan Shelter with costs associated with the COVID-19 pandemic.

Pursuant to the request of Local Behavioral Health Authority Director Sexauer and upon a motion by Commissioner Bertino, the Commissioners unanimously accepted the highest-scoring proposal from the Worcester County Health Department (85.5 out of 100 points) to provide Adult Mental Health Targeted Case Management Services to connect adults with serious mental illness to needed treatment and support to improve their overall quality of life and promote long-term recovery. Ms. Sexauer explained that the proposals were reviewed by an independent outside review team from Mid-Shore Behavioral Health Systems to avoid any perceived conflict of interest since her office is housed in the Health Department.

The Commissioners met with Finance Officer Phil Thompson to review the recommended FY21 Tax Ditch Rates, certifications, and recommended Managers for all 18 Tax Ditches in the County. Mr. Thompson stated that the tax ditch rates were identical to the prior year, except for the following four tax ditches: the Coonsfoot Tax Ditch where the rates will increase from \$3.00 to \$3.50 per acre for tilled land, from \$1.50 to \$2.00 for Wooded land, and the minimum payment will increase from \$37.50 to \$50.00; the Goodwill Branch Tax Ditch where the rates will increase from \$2.50 to \$3.00 per acre for tilled land, from \$1.50 to \$2.00 for Wooded land, and the minimum payment will increase from \$25.00 to \$30.00; the Passerdyke Branch Tax Ditch where the minimum payment will increase from \$20.00 to \$25.00; and the Taylorville (Lower) Tax Ditch where the minimum payment will increase from \$15.00 to \$25.00, as requested by the Tax Ditch Managers. In response to a question by Commissioner Elder, Mr. Thompson explained that the increased rate for the Coonsfoot Branch Tax Ditch was proposed and set by the Tax Ditch Managers for planned work and the County is simply the

liaison for tax collection. Mr. Higgins stated that the County could request a cash flow analysis to better explain the purpose of the increased rate if desired.

Following some discussion and upon a motion by Commissioner Bertino, the Commissioners voted 5-2, with Commissioners Bunting and Elder voting in opposition to approve the recommended FY21 Tax Ditch Rates, certifications, and recommended Managers for all 18 Tax Ditches in the County.

Pursuant to the request of Information Technology Director Brian Jones and upon a motion by Commissioner Elder, the Commissioners unanimously approved bid specifications for a new uninterruptible power supply (UPS) to provide backup power to the County's primary server room. Mr. Jones advised that \$35,000 is available within the FY20 budget for this purchase.

Pursuant to the request of Public Works Director John Tustin and upon a motion by Commissioner Bertino, the Commissioners unanimously agreed to waive the standard bid process and accept the proposal from Tarpomatic, Inc. of Canton, Ohio in the amount of \$78,137 for an automatic tarping machine to replace aged equipment within the Solid Waste Division of Public Works. Mr. Tustin stated that this specific tarping machine has been approved by the Maryland Department of the Environment (MDE) as alternate daily cover and is compatible with the current machines at the Central Landfill.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Nordstrom, the Commissioners unanimously approved final costs with Davis, Bowen, and Friedel (DBF) for the Mystic Harbour Effluent Disposal Program for their efforts to resolve minor operational issues with the effluent disposal system that sends treated effluent to the Eagle's Landing Golf Course. The costs included \$16,276 for additional engineering services during construction and \$21,092 for onsite inspection time. The Commissioners further approved the purchase of a skid steer loader at the low quote of \$64,227 from Bobcat of Sussex County in Delmar, Delaware. Mr. Tustin advised that \$40,000 in unused United States Department of Agriculture (USDA) grant funds are available to cover the additional cost of the skid steer loader with the remaining cost of \$24,227 to be covered by service area reserve funds.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Bertino, the Commissioners unanimously approved bid specifications to upgrade Pump Stations S and P in the Ocean Pines Sanitary Service Area (SSA), with funds of \$500,000 available within the FY20 budget for this purpose.

Pursuant to the recommendation of Development Review and Permitting (DRP) Director Ed Tudor and upon a motion by Commissioner Bertino, the Commissioners unanimously agreed to schedule a public hearing on June 16, 2020 to receive public comment on an application submitted by Hugh Cropper, IV, on behalf of Kathleen Clark, to establish a Residential Planned Community (RPC) floating zone on the property known as Shady Side Village, located on the southerly side of MD Rt. 707, west of Greenridge Lane, and more specifically identified on Tax Map 26 as Parcel 157, which consists of a proposed 37-unit townhouse development. Mr. Tudor stated that the proposal received a favorable recommendation from the Planning Commission on

March 5, 2020.

The Commissioners recessed until 10:00 a.m.

The Commissioners met in legislative session.

The Commissioners conducted a public hearing on Bill 20-2 (Zoning - Special Events in the RP Resource Protection District), which was introduced by Commissioners Church, Mitrecic, Nordstrom, and Purnell on March 17, 2020. Mr. Tudor stated that this bill would amend the Resource Protection (RP) District regulations to allow special events to be held on farms by special exception. Specifically, the proposed bill seeks to renumber subsection ZS 1-215(c)(15) as ZS 1-215(c)(16) and add a new subsection ZS 1-215(c)(15) to allow special events in the RP zoning district. He concluded that the new language mirrors that for the A-1 and A-2 Agricultural Districts and the E-1 Estate District, and the Planning Commission gave a favorable recommendation to the amendment in a split 4-3 vote.

Commissioner Mitrecic opened the floor to receive public comment.

Attorney Mark Cropper stated that the legislation is not site specific, noting that at present this use is permitted on properties zoned Agriculture and Estate District; however, many of these same properties are also partially zoned RP, and it is these portions that tend to be closest to the water and thus the most desirable for hosting special events. He noted that these types of special events could be permitted on properties such as the Rackliffe House on MD Rt. 611 near Assateague Island National Seashore, part of which is zoned RP, and he asked the Commissioners to adopt Bill 20-2 as submitted.

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

Upon a motion by Commissioner Bunting, the Commissioners unanimously adopted Bill 20-2 (Zoning - Special Events in the RP Resource Protection District) as presented.

The Commissioners conducted a public hearing on Bill 20-3 (Natural Resources - Special Events in Resource Conservation Areas), which was introduced by Commissioners Bertino, Bunting, Church, Elder, Mitrecic, Nordstrom, and Purnell on April 21, 2020. Environmental Programs Director Bob Mitchell advised that this bill would amend Sections NR 3-102(a) and

NR 3-108(d) of the Natural Resources Article of the Code of Public Local Laws of Worcester County, Maryland regarding land use in the Resource Conservation Area (RCA) of the Atlantic Coastal Bays Critical Area to add a definition of “special events” and to allow special events, subject to certain conditions, in the RCA in the Estate, Agricultural, and Resource Protection zoning districts. He also reiterated that this bill is accompanying Bill 20-2 to permit non-agricultural functions and events as an accessory use on farms in the RP District by special exception. He concluded that staff recommends approval of this text amendment.

Commissioner Mitrecic opened the hearing to receive public comment.

Attorney Mark Cropper concurred with staff’s assessment and asked the Commissioners to adopt Bill 20-3 as presented.

Assistant Chief Administrative Officer Kelly Shannahan read a letter from John Zajac of Berlin asking the Commissioners to require that such an event must be located not less than 500 feet from any residential structure on an adjacent property and any amplified music must end by 11:00 p.m. Mr. Shannahan confirmed that these restrictions are already required by the County Zoning Code.

Attorney Hugh Cropper stated that he represents several clients who all support Bill 20-3; however, he questioned why the bill limits special events in the RCA to properties consisting of 25 acres or greater. Jenelle Gerthoffer of Environmental Programs stated that this is the minimum acreage requirement in other Maryland counties that permit special events in the RCA. Commissioner Bunting stated that he favored the minimum 25 acre requirement given that the RCA already requires a minimum density of one unit per 20 acres and since these events could be held every weekend.

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

Following some discussion and upon a motion by Commissioner Bunting, the Commissioners unanimously adopted Bill 20-3 (Natural Resources - Special Events in Resource Conservation Areas) as submitted.

The Commissioners met with Mr. Mitchell to review a text amendment drafted by staff to amend the County Code to address legislation adopted during the 2019 Maryland General Assembly revising the Maryland Forest Conservation Act, which necessitated changes to the County’s forest conservation law. Commissioner Bunting stated that the Maryland Forest Conservation Act has become overly restrictive and he does not support the proposed revisions.

Following some discussion, Commissioners Nordstrom and Purnell introduced the aforementioned text amendment as Bill 20-4 and President Mitrecic scheduled a public hearing on the bill for June 16, 2020.

The Commissioners met with Mr. Tudor to review a text amendment application submitted by Edward E. Sowers seeking to amend Section ZS 1-314 of the Zoning and Subdivision Control Article to remove the 15-foot maximum height limitation for one-story manufactured and mobile homes while retaining the limitation of one story. Mr. Tudor advised that Mr. Sowers has requested that the proposed bill be introduced as emergency legislation to become effective immediately upon passage.

Following some discussion, Commissioners Bertino, Bunting, Church, Elder, Mitrecic, Nordstrom, and Purnell introduced the aforementioned text amendment as Emergency Bill 20-5

and President Mitrecic scheduled a public hearing on the emergency bill for June 16, 2020. Commissioner Mitrecic closed the legislative session.

The Commissioners conducted a combined public hearing to receive comments on the proposed Gum Point Road area sewer extension project and creation of the Gum Point Road area Sanitary Service Area (SSA). Assistant Chief Administrative Officer Kelly Shannahan advised that Extension of sewer service to this area was first envisioned in 2005 when the County Commissioners adopted Resolution No. 05-9 on April 5, 2005, which amended the County Water and Sewerage Plan to add the Greater Ocean Pines Sanitary Service Area. More recently, Gum Point Road property owner Steven Hershey offered a contribution of \$50,000 toward the cost of the project to extend public sewer service to the eastern end of Gum Point Road, which lead to the proposal before the Commissioners today. Mr. Mitchell advised that the subject properties are located on Gum Point Road, a community of homes located south of Ocean Pines on Turville Creek, an Atlantic Coastal Bays tributary in the Isle of Wight Watershed. He stated that the proposed project includes an initial provision of 97 equivalent dwelling units (EDUs) to serve the existing community by way of a low pressure force main from the Ocean Downs property that passes through the Gum Point Road community to the Ocean Pines sewer collection system. He stated that Mr. Hershey's \$50,000 contribution will reduce project costs from \$318,000 to \$268,000, making the project both financially feasible and desirable for the health, safety, and welfare of the community and the environment. He stated that once all 97 homes on the road abandon their existing septic systems and hook into public sewer this project will result in the removal of 1,821 pounds of nitrogen annually from the watershed.

Public Works Director John Tustin provided an executive summary of the engineering design, and Deputy Director John Ross reviewed the estimated construction costs.

Assistant Finance Officer Jessica Wilson advised that the net construction cost of \$268,000 will be allocated over the full 97 EDUs for a construction cost per EDU of \$2,763, which is included in the overall cost of \$16,886; however, funding for this project is not available within enterprise fund for the Ocean Pines SSA. Therefore, up-front costs will be covered by a low-interest loan from the County's General Fund, which will be repaid when the property owners connect to the system. In response to a question by Commissioner Bertino, Ms. Wilson confirmed that Gum Point Road residents will not be required to hook up to public sewer until their existing septic systems fail, they expand their homes, or another triggering event occurs.

In response to a question by Commissioner Purnell, Ms. Wilson advised that the \$16,886 charge is an up front cost to the homeowner that must be paid in advance of hooking up and the County does not offer a payment plan for that cost. Commissioner Bunting stated that homeowners could borrow funds from a local bank to cover the cost like any other home improvement loan if they are unable to pay the full cost up front.

Commissioner Mitrecic opened the floor to receive public comment.

Mark Cropper, representing Mr. Hershey, stated that this proposal came to fruition because of an alternate proposal submitted by his client to connect to Bay Point Plantation. At that time, his client had offered to contribute funding of up to \$50,000 to install a permanent sewer line down Gum Point Road, with the final cost to be based on the cost estimate to connect to Bay Point Plantation. That estimate came in at \$44,000 and is the amount his client is willing to contribute to help facilitate this project. He stated that his client fully supports this project

based on that funding contribution change as well as other minor contract changes.

Project Engineer John Salm confirmed the cost estimate of \$44,000 had Mr. Hershey been permitted to connect to the Ocean Pines sewer system via Bay Point Plantation.

Commissioner Elder stated that the County agreed to move forward with this project based on Mr. Hershey agreeing to contribute \$50,000 to make this an affordable project, and all of the cost estimates are based on that contribution. Mr. Shannahan concurred and noted that Mr. Cropper proposed the contribution on February 4, 2020 and reconfirmed that contribution commitment on February 18. Mr. Cropper conferred with his client and a short time later agreed to contribute the full \$50,000 to the project as previously agreed upon.

Mr. Shannahan read a letter from Frank Campbell of Gum Point Road advising that he has a functioning sand mound system and requesting confirmation that he would not be required to hook up to public sewer. Mr. Shannahan reconfirmed that no one on Gum Point Road will be required to hook up to public sewer until his or her existing septic system fails or in the event of another triggering event. Environmental Programs Director Bob Mitchell stated that there may be other circumstances which would require connection. For example, during a property transfer, if the system is tested and fails inspection, connection to the public sewer system may be required.

Mr. Shannahan read an email from Kenneth and Eeva Huffer of Gum Point Road who opposed the project, noting that they own a functioning septic system, and they cannot afford the additional fee to hook up to public sewer.

Mr. Shannahan read an email from John, Harry and Susan Taylor of Gum Point Road who opposed the project, as they have a working septic system and do not wish to spend more money at this time.

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

Following some discussion and upon a motion by Commissioner Elder, the Commissioners unanimously approved the project and creation of the Gum Point Road Area Service Area as proposed and agreed to adopt the formal resolution at their next meeting.

The Commissioners answered questions from the press, after which they adjourned their regular session to conduct a work session on the FY21 budget.