

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

June 19, 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 Bunting, with Commissioner Mitrecic absent, 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; and Stacey Norton, Human Resources Director. Topics discussed and actions taken included: posting to fill upcoming vacancies for a Development Review and Permitting (DRP) Specialist II, a Bailiff within the Circuit Court, and a Director of Emergency Services; receiving legal advice from counsel; and performing administrative functions.

Commissioner Mitrecic was absent from the closed session to attend "Preventing Unlawful Harassment in the Workplace" Training in the third floor training room in the Government Center. This mandatory training was made available by the Commissioners to increase County employees' awareness of federal and state laws that are designed to prevent and respond to workplace harassment, as well as County rules and regulations governing employees' rights and responsibilities with regard to maintaining a work environment where all individuals feel safe and respected.

Commissioner Mitrecic joined the meeting.

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 June 5, 2018 meeting as presented.

Pursuant to the written request of Board of Education (BOE) Chief Financial Officer Vincent E. Tolbert and upon a motion by Commissioner Bertino, the Commissioners unanimously authorized Commission President Purnell to sign the BOE's Annual Budget Certification Statement, which certifies County funds of \$86,685,293 for BOE expenses,

\$343,500 for school construction, and \$10,396,581 for Debt Service for BOE projects in the FY19 County Operating Budget.

Commissioner Mitrecic stated that Board of Education (BOE) Superintendent Louis Taylor had expressed concern that the Commissioners did not approve funding within the FY19 Budget to replace the sports fields at Stephen Decatur High School (SDHS), and he must provide the State, with confirmation that the Commissioners will fund the County share of that project, by July 1, 2018. In response to a question by Commissioner Church, Budget Officer Kathy Whited stated that BOE officials divided field replacement costs between their FY19 and FY20 budgets; however, County staff advised Mr. Tolbert that the Commissioners planned to include the entire field replacement project cost, as well as certain Public Works projects, within the FY19 General Obligation Bond to replace the Showell Elementary School (SES). Commissioner Bertino stated that, while he does not oppose the field replacement project, he was not prepared to vote on this funding request until the total cost of the SES project is known. After some discussion and upon a motion by Commissioner Mitrecic, the Commissioners voted 5-0-2, with Commissioners Bertino and Bunting abstaining, to include funding for the field replacement project at Stephen Decatur High School (SDHS) within the FY19 General Obligation Bond.

Pursuant to the written request of Mr. Tolbert and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved the County Appropriation Transmittal Schedule for FY19 for the BOE totaling \$86,685,293.

Pursuant to the recommendation of Chief Administrative Officer Harold Higgins at the request of Wor-Wic Community College President Dr. Ray Hoy and upon a motion by Commissioner Bertino, the Commissioners unanimously adopted Resolution No. 18-13, adopting the Wor-Wic Community College Expenditure Budget for FY19, which is based on a revised operating budget of \$27,021,233, with a County share of \$2,203,762 as budgeted. The Commissioners further agreed that the shortfall of \$300,000 would be reconciled by increasing the tuition rates for Worcester County students by up to \$6.00 per credit hour and by utilizing the lost tuition stabilization grant of \$53,272, so as not to affect the adopted County budget.

Pursuant to the request of Finance Officer Phil Thompson and upon a motion by Commissioner Bertino, the Commissioners unanimously authorized Commission President Purnell to sign the Custody Account Agreement with Wilmington Trust to enable investment in U.S. Treasuries, effective July 1, 2018. Mr. Thompson stated that the current interest rate climate continues to steadily improve, and staff included provisions in the FY19 County Operating Budget to account for the anticipated increase in interest revenue. Thus, he advised that the agreement with Wilmington Trust will be used in addition to and as an alternative to the Maryland Local Government Investment Pool (MLGIP), which the County has utilized for many years, as an investment vehicle. He stated that all funds invested are backed by the U.S. Treasury, and this activity is in accordance with the County's long-standing investment policy.

Upon a motion by Commissioner Bertino, the Commissioners unanimously adopted Resolution No. 18-14 adopting the Sanitary Service Area Budgets, Assessments and Charges and Establishing Classifications for the Water and Wastewater Enterprise Fund for July 1, 2018 through June 30, 2019, as conceptually approved after their public hearing on June 5, 2018.

Upon a motion by Commissioner Bertino, the Commissioners voted 6-1, with Commissioner Bunting voting in opposition, to adopt Resolution No. 18-15 adopting the Solid Waste Enterprise Fund Budget and Fees for July 1, 2018 through June 30, 2019, as conceptually approved after their public hearing on June 5, 2018.

Upon a motion by Commissioner Mitrecic, the Commissioners unanimously adopted Resolution No. 18-16 adopting a budget of \$915,000 for the Liquor Control Enterprise Fund to enable continued operation of the Pocomoke retail liquor store from July 1, 2018 through June 30, 2019 or until final settlement on the sale of the store, as conceptually approved after the public hearing on June 5, 2018.

Pursuant to the request of Sheriff Reggie Mason and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Commission President Purnell to sign the Mutual Aid Agreement between the Worcester County Sheriff's Office, the Worcester County Commissioners, and the Ocean City Mayor and Council and their respective law enforcement agencies to employ regional approaches to public safety planning, preparedness, and responses to public safety needs.

Pursuant to the request of Budget Accountant Kim Reynolds and upon a motion by Commissioner Lockfaw, the Commissioners unanimously authorized Commission President Purnell to sign the Governor's Office of Crime Control and Prevention FY19 Grant Application for funds of \$50,615 for the grant-funded position of Heroin Coordinator within the Sheriff's Office to 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. In response to a question by Commissioner Bertino, Ms. Reynolds advised that continuation of this position is contingent upon receipt of grant funds or approval by the Commissioners for alternate funding.

Pursuant to the request of Ms. Reynolds and upon a motion by Commissioner Lockfaw, the Commissioners unanimously authorized Commission President Purnell to sign the Maryland Department of Aging FY19 Grant Application for funding of \$46,403 to promote healthy lifestyles in Senior Centers in the County. Ms. Reynolds advised that no County match is required.

Pursuant to the request of Public Works Director John Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously agreed to waive the standard bid process and approved the proposal from Sherwood-Logan & Associates of Annapolis, Maryland for the provision of one replacement Flygt CP 3127.091 Submersible Pump at The Landings Wastewater Treatment Plant (WWTP) at a total delivered cost of \$10,525 to replace a pump that failed.

Mr. Tustin reminded the Commissioners that, on May 1, 2018 after the Commissioners rejected the three bids received for the Court House jury assembly restroom renovation project, staff members were authorized to work with the low bidder, KB Coldiron, Inc. of Frankford,

Delaware, to complete a comprehensive product evaluation to determine alternate products, and to develop a summary of project selection, pricing, and recommendations to reduce the total cost of this project for the Commissioners' future consideration. He then reviewed the proposed cost saving recommendations that resulted from that meeting. Following some discussion and upon a motion by Commissioner Church, which he then amended to include a recommendation by Commissioner Mitrecic, the Commissioners unanimously approved the price reductions outlined as Option 2, with the exception of the alternate counter top products for a revised project total of \$109,810, and awarded the contract to KB Coldiron to perform the work, in accordance with the revised scope of work.

The Commissioners conducted a public hearing to consider a requested amendment to the Worcester County Comprehensive Water and Sewerage Plan, as submitted by Environmental Programs Director Bob Mitchell on behalf of the Commissioners, to amend the EDU Allocation Table for the available sewer treatment capacity in the Mystic Harbour Sanitary Service Area (SSA). Mr. Mitchell reviewed the amendment, which seeks to revise the EDU Allocation Table for the Mystic Harbour SSA to allocate 34 EDU's from the Infill and Intensification category in Area 1 (north of the airport) to the Frontier Town Campground category in Area 2 (south of the airport) to accommodate a 101-campsite expansion on the existing campground property. He advised that this proposal does not require expansion of the existing Mystic Harbour SSA. He stated that the Planning Commission found the proposed amendments to be consistent with the County's Comprehensive Development Plan and granted the application a favorable recommendation.

Commissioner Purnell opened the floor to receive public comment.

Hugh Cropper, attorney for Sun TRS, owner of Frontier Town, advised that the property was successfully rezoned A-2 Agricultural District and received two special exceptions because the proposed expansion is consistent with the Comprehensive Plan. He asked the Commissioners to accept these findings along with the County staff report as his testimony in favor of the application.

In response to questions by Mr. Cropper, H&B Solutions, LLC co-owner and consultant Dane Bauer advised that this project is feasible from an engineering point of view. He stated that he worked with Davis, Bowen & Friedel, Inc. of Salisbury, the Maryland Department of the Environment (MDE), and County staff to obtain all necessary permits to design a central pump station on MD Rt. 611 to serve the campground expansion, as well as other property to be served in the vicinity. He stated that the amendment before the Commissioners today is consistent with prior MDE approvals. Mr. Mitchell clarified that the EDU Allocation Table was the result of MDE amendments to Water and Sewerage Plan amendments for Mystic Harbour and Frontier Town, as approved by the County.

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

Upon a motion by Commissioner Bunting, the Commissioners unanimously adopted Resolution No. 18-17 amending the Worcester County Water and Sewerage Plan to amend the EDU Allocation Table for the Mystic Harbour SSA as requested.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved a Base-Bid Guaranteed Maximum Price (GMP) contract from The Whiting-Turner Contracting Company, which includes recommended alternatives, at a total cost of \$1,254,639 for renovations to the Ocean Pines Branch Library,

including architectural, building envelope, and mechanical, electrical, and plumbing (MEP) renovations.

Pursuant to the recommendation of Recreation and Parks Director Tom Perlozzo and upon a motion by Commissioner Mitrecic, the Commissioners voted 4-3, with Commissioners Bertino, Bunting, and Elder voting in opposition, to approve out-of-state travel for Recreation Program Managers Kelly Buchanan and Brianna Goddard to attend the 2018 World Aquatic Health Conference in Charleston, South Carolina from October 10-12, 2018, at a total estimated cost of \$1,992. Mr. Perlozzo advised that training sessions being offered at this conference will prepare staff to more effectively manage aquatic staff, explain strategies to prevent drownings, teach techniques to improve safety for pool patrons, and better manage water treatment chemicals.

Pursuant to the recommendation of Environmental Programs Director Bob Mitchell and upon a motion by Commissioner Bertino, the Commissioners unanimously accepted the Forest Stewardship Plan for Grey's Creek Nature Park. Mr. Mitchell advised that Recreation and Parks manages this park as a passive nature park and supports environmental education programs run in conjunction with the Maryland Coastal Bays Program (MCBP). He affirmed that this plan preserves and enhances native species, habitat, soil, and water quality, and utilizes and improves the recreational and educational opportunities on the site.

Pursuant to the request of Mr. Mitchell and upon a motion by Commissioner Bertino, the Commissioners unanimously approved Amendment #4 to the terms of the Memorandum of Agreement (MOA) between the Maryland Department of the Environment (MDE) and the Commissioners, for a no-cost extension to the MOA from June 30, 2018 to June 30, 2020 to complete the specified scope of work to complete the Coastal Bays Watershed Plan. Mr. Mitchell advised that this will allow both parties the time needed to revise and rework the plan to incorporate needed Environmental Protection Agency (EPA) watershed objectives.

Pursuant to the written request of Matt O'Donnell of the U.S. Board on Geographic Names (BGN) with the U.S. Geological Survey (USGS), the Commissioners voted 6-0-1, with Commissioner Bunting abstaining, to support a proposal from a geographic information systems (GIS) specialist with Assateague Island National Seashore to apply the new name Buntings Gut to an unnamed waterway on the west side of Assateague Island that is located about 15 miles southwest of Ocean City. The BGN is the department tasked with standardizing geographic names for use by federal departments and agencies, and the new name commemorates Clayton Bunting (1893-1963) who owned a hunting lodge in the area. Commissioner Bunting, who bears no relation to Clayton Bunting, abstained from the vote to avoid any perceived conflict of interest.

The Commissioners met with Development Review and Permitting (DRP) Director Ed Tudor to consider an application from John Jarvis of 12242 Greenridge Lane for a variance to the County Floodplain Management Ordinance for an 800-square-foot detached garage, with a floor elevation of 0.7-foot below the base flood elevation, which is located within the 100-year tidal floodplain of Herring Creek in West Ocean City and identified on Tax Map 26 as Parcel 191.

The Commissioners also reviewed written recommendations submitted by Kevin Wagner, Community Assistance Program Manager for the State's National Flood Insurance Program (NFIP) Office of the Maryland Department of the Environment (MDE). In his letter, Mr. Wagner advised that, if the variance is approved, Mr. Wagner must be advised that the cost of federal flood insurance will be commensurate with the increased risk, with rates of up to \$25 per \$100 of insurance coverage, and all variance actions shall be maintained by Worcester County and available upon request by the Federal Emergency Management Agency (FEMA) or the State NFIP Office. Mr. Tudor stated that Floodplain Construction regulation BR 2-305(g)(1) of the County Code requires all residential accessory structures greater than 300 square feet to be elevated above the base flood elevation. He pointed out that the existing lot elevation where the garage is located sits higher than the elevation where the primary residence is constructed. Mr. Tudor advised that if this garage was attached to a principal structure, the floor elevation could be below the base flood elevation provided that the area was vented, and this garage was fitted with flood vents by the builder to meet those minimum requirements. He further stated that the garage replaced a smaller accessory structure that had been located closer to the nontidal wetlands buffer. Mr. Tudor concluded that the Commissioners are not required to conduct a public hearing for this variance request; however, if they are inclined to grant the request, Section BR 2-307(c) requires that the County Commissioners make specific findings of fact on all elevations, all relevant factors, requirements specified in other sections of the regulations, and the 12 specific items stated in the section; and he further recommended that any approval be subject to corrections noted by Mr. Wagner.

Upon a motion by Commissioner Elder, the Commissioners voted 6-0-1, with Commissioner Mitrecic abstaining due to a potential conflict of interest, conceptually approved the requested variance and agreed to formally adopt the Findings of Fact and resolution at a future meeting.

Pursuant to the request of County Attorney Maureen Howarth and upon a motion by Commissioner Mitrecic, the Commissioners voted 5-2, with Commissioners Bunting and Elder voting in opposition, to approve out-of-state travel for Ms. Howarth to attend the International Municipal Lawyers Association (IMLA) annual conference in Houston, Texas from October 16-21, 2018 at a total estimated cost of \$2,940, with funds available in the FY19 travel and training budget for this expense.

In a related matter, to assure the availability of legal counsel at each meeting in calendar year 2018, the Commissioners further agreed to move their scheduled meeting from October 16 to October 23, 2018, after Ms. Howarth returns from the conference.

The Commissioners met with Assistant Chief Administrative Officer and Sewer Committee representative Kelly Shannahan to review a request from Stockyard, Inc. owners Pete and Royette Shepherd for allocation of nine equivalent dwelling units (EDUs) of sanitary sewer service from the Mystic Harbour Sanitary Service Area (SSA) to serve the proposed Hooper's Shopping Plaza adjacent to Hooper's Crab House on the north side of U.S. Rt. 50 in West Ocean City and more specifically identified on Tax Map 27 as Parcels 569 (2.25 acres) and 587 (1.93 acres), comprising a total of 4.18 acres. Parcel 587, which is currently unimproved and utilized for overflow parking and special events for Hooper's Crab House, lies within the overlay district in both the Mystic Harbour and West Ocean City SSAs. Mr. Shannahan advised that the subject

property is zoned C-2 General Commercial and 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 noted that the applicant will be required to connect to the Mystic Harbour water system if the sewer EDUs are allocated to this project. Though currently no sewer EDUs from the Mystic Harbour SSA are allocated to these properties, Parcel 569 has 38 sewer EDU's from the West Ocean City SSA to serve Hooper's Crab House. Therefore, the Sewer Committee suggests that a boundary line adjustment, or other similar legally binding agreement, be required of the applicant to separate the proposed shopping plaza on Parcel 587 from Hooper's Crab House on Parcel 569, and specifically to memorialize that the allocation of EDUs from the Mystic Harbour SSA are assigned to Parcel 587, while the EDUs from the West Ocean City SSA will remain on Parcel 569 to serve Hooper's Crab House. Mr. Shannahan advised that there are currently 260 remaining EDUs allocated in Area 1 (north of the airport), in which the subject property is located, that have been allocated for the following uses: Infill and Intensification (114 EDUs), Vacant or Multi-Lot properties (80 EDUs), Single Family Dwellings (17 EDUs), and Commercial (49 EDUs). He then reviewed options for the Commissioners' action on this request, stating that the Commercial allocation would be the most appropriate category from which to consider assigning the requested EDUs if the Commissioners approve this request.

Upon a motion by Commissioner Bunting, the Commissioners unanimously approved Option 1 to approve the request for allocation of 9 EDUs of sewer service from Area 1, with EDUs allocated from the Commercial category, and a required boundary line adjustment or other legal agreement to specify that the EDUs shall serve the shopping center on Parcel 587.

Commissioner Mitrecic advised that a letter was forthcoming from Ocean City Mayor Rick Meehan that would include two requests: for the Commissioners to assemble a task force, with representatives from each of the volunteer fire agencies in the County, to develop an equitable formula for awarding County grant funding to these agencies; and for the Commissioners to meet with the Ocean City Mayor and Council to attempt to reach an amicable solution to the tax differential issue instead of continuing through the court system. Based on advice from legal counsel, the Commissioners did not comment on these matters. President Purnell stated that in the future such matters should be presented to all Commissioners before being discussed at a Commissioners' meeting. Commissioner Mitrecic agreed.

The Commissioners answered questions from the press, after which they adjourned to meet again on July 3, 2018.