

Minutes of the County Commissioners of Worcester County, Maryland

June 15, 2021

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

Following a motion by Commissioner Bertino, seconded by Commissioner Bunting, the commissioners unanimously voted to meet in closed session at 9:01 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 (GP) Article of the Annotated Code of Maryland and to perform administrative functions permitted under the provisions of Section GP 3-104. Also present at the closed session were Chief Administrative Officer Harold L. Higgins, Public Information Officer Kim Moses, Office Assistant Kristina Prout, and Human Resources Director Stacey Norton. Topics discussed and actions taken included hiring Ellen Whitmore as a communications specialist trainee within Emergency Services and certain personnel matters; and performing administrative functions, including discussing potential board appointments.

Following a motion by Commissioner Nordstrom, seconded by Commissioner Bertino, the commissioners unanimously voted to adjourn their closed session at 9:17 a.m.

After the closed session, the commissioners reconvened in open session. Commissioner Mitrecic called the meeting to order, and following a morning prayer by Pastor Dale Brown of the Community Church at Ocean Pines and pledge of allegiance, announced the topics discussed during the morning closed session.

The commissioners reviewed and approved the open and closed session minutes of their June 1, 2021 meeting as presented.

The commissioners presented a retirement commendation to Judicial Assistant Charlene Showell who retired following 38 years of dedicated service within the District Court for the State of Maryland and the Circuit Court for Worcester County.

The commissioners presented a commendation to Stephen Decatur High School senior Houston Phillips for taking first place in three regional and four state championships in the Stock Market Games hosted by the Maryland Council on Economic Education.

The commissioners presented a proclamation to Ivory Smith, president of the Worcester County Branch of the NAACP, and other NAACP members recognizing June 19, 2021 as Juneteenth in Worcester County and encouraged all to elevate civility, to replace injustice with justice and equality, and to work together to end human trafficking and modern-day slavery.

Upon a motion by Commissioner Bertino, the commissioners unanimously approved as a consent agenda the item numbers 2-6 as follows: continued participation in the “On Behalf Of” (OBO) Maryland Mortgage Program to include the irrevocable transfer of Worcester County’s full \$1,995,186 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; Small Project Wastewater and/or Water Agreement with Kathleen M. Clark (developer) for the Ocean Heights water and sewer extension project along Golf Course Road in West Ocean City to serve 10 existing lots and a community pool; approving bid specifications for continued preventive maintenance of County generators; Change Order No. 1 for the Riddle Farm Wastewater Treatment Plant flow equalization tank project for a credit of \$12,000, for a final contract cost of \$402,330; and approving a request for proposals to implement Respite Care Parent Advocacy Services for children and families through the Worcester County Local Behavioral Health Authority.

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 Mitrecic to sign the BOE’s Annual Budget Certification Statement, which certifies County funds of \$96,341,968 for BOE expenses, \$295,800 for school construction, and \$12,469,356 for Debt Service for BOE projects in the FY22 County Operating Budget.

Pursuant to the written request of Mr. Tolbert and upon a motion by Commissioner Bertino, the Commissioners unanimously approved the County Appropriation Transmittal Schedule for FY22 for the BOE totaling \$96,341,968.

Upon a motion by Commissioner Bertino, the Commissioners unanimously adopted Resolution No. 21-11 adopting the FY22 Wor-Wic Community College (WWCC) Expenditure Budget of \$29,697,673 and \$357,500 for the Maintenance and Repair Plan; and approved the Letter of Intent Maryland Community Colleges assuring that the county intends to provide the local share of funds to design, construct, and equip the Applied Technology Building. The letter of intent is a formality and does not bind the County to a share of project costs.

The commissioners reviewed and discussed various board appointments.

Upon a nomination by Commissioner Bunting, the commissioners unanimously agreed to appoint Sandra Buchanan to the Board of Library Trustees for a five-year term expiring December 31, 2026 to replace James Bailey whose term expired.

Pursuant to the request of Tourism and Economic Development Director Melanie Pursel and upon a motion by Commissioner Purnell, the Commissioners unanimously authorized Commission President Mitrecic to sign the Memorandum of Understanding for STEM Summer Camps between the County Commissioners of Worcester County and the BOE, with a County cost not to exceed \$120,000. Ms. Pursel advised that the BOE will provide science, technology, engineering, and mathematics oriented day camps this August to fulfill the commitment made to students who were displaced from the Worcester County Economic Development STEM Camp

during summer 2020 due to the COVID-19 pandemic. In response to a question by Commissioner Bunting, Ms. Pursel confirmed that costs for this new program include the use of FY20 budgeted funds of \$60,000 and FY21 budgeted funds of \$60,000. She further confirmed that these costs would not impact Maintenance of Effort costs. Commissioner Elder congratulated Ms. Pursel, noting that this program is being recognized as a model program throughout the State.

Pursuant to the recommendation of Development Review and Permitting (DRP) Director Ed Tudor and upon a motion by Commissioner Bertino, the commissioners unanimously adopted the Findings of Fact and Zoning Reclassification Resolution 21-02 for Rezoning Case No. 429 to rezone approximately 129.28 acres of land located to the southerly side of Nassawango Road, west of MD Rt. 12, and more specifically identified on Tax Map 70 as Parcel 18 - Parcel A, from RP Resource Protection District to A-1 Agricultural District; and the Findings of Fact and Zoning Reclassification Resolution 21-03 for Rezoning Case No. 430 to rezone approximately 385.5 acres of land located to on the southerly side of Cellar House Road, northeast of Whitesburg Road, and more specifically identified on Tax Map 69 as Parcels 25 and 27, from RP Resource Protection District to A-1 Agricultural District.

Pursuant to the written request of Public Works Deputy Director and upon a motion by Commissioner Bertino, the Commissioners unanimously awarded the best bid for the lease of one current model year CAT 963 WHA landfill track loader to be utilized by the Solid Waste Division of Public Works to Carter Machinery at an acquisition cost of \$529,500 less buy back at the end of five years of \$102,500 for a net adjusted price of \$427,000. In response to questions by Commissioner Nordstrom, Public Works Deputy Director John Ross advised that only two bids were received, and the apparent low bid of \$403,815 from Jesco, Inc. is for a John Deere 755K Crawler Dozer, which does not meet the size specifications and comes with a warranty for only 10,000 hours, while the CAT meets all bid specifications and comes with a warranty for 12,500 hours. In response to a question by Commissioners Elder, Mr. Ross stated that the specifications for this piece of equipment are updated every five years.

The commissioners received objections and other public comments on the proposed disposal of surplus County vehicles and equipment no longer used by the County, by auctioning these items on GovDeals.com. There being no objections, upon a motion by Commissioner Bertino, the commissioners unanimously agreed that the list of personal property, including vehicles, furniture, and equipment, will be sold online at www.govdeals.com as County surplus property.

The Commissioners met in legislative session.

The Commissioners conducted a public hearing on Bill 21-3 (Public Safety – Animal Control), which was introduced by Commissioners Bertino, Bunting, Church, Elder, Mitrecic, Nordstrom, and Purnell on April 20, 2021. Animal Control Officer Glen Grandstaff reviewed the bill, which includes but is not limited to revisions to the kennel license code to clarify a common breeder, commercial breeder, and the operation of a commercial kennel, adds regulations that require record keeping for vaccinations and healthcare for a breeder involved in the sale of kittens or puppies; increases the enforcement authority of Animal Control related to those

involved in commercial operations; adds more provisions to define suitable shelter; establishes certain conditions in which tethering of an animal is not acceptable; lowers the stray hold period of cats and dogs from 10 days to the industry standard of three business days, and establishes what constitutes a violation and the penalties and remedies available.

Commissioner Mitrecic opened the floor to receive public comment.

Lynn Bennett, a representative of the Worcester County Humane Society, fully supported the bill, as it will prevent breeders from profiting by treating and housing animals in a cruel manner.

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

Upon a motion by Commissioner Nordstrom, the commissioners unanimously adopted Bill 21-3.

The Commissioners conducted a public hearing on Bill 21-4, which was introduced by Commissioners Bertino, Bunting, Church, Elder, Mitrecic, Nordstrom, and Purnell on April 20, 2021. Development Review and Permitting Director Ed Tudor reviewed the bill, which includes definitions for terms currently found in the Animal Control Subtitle, such as commercial kennel and breeder, and clarify the existing district regulations and home occupation provisions where the commercial kennel use is listed to reflect the new terminology.

Commissioner Mitrecic opened the floor to receive public comments.

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

Upon a motion by Commissioner Nordstrom, the commissioners unanimously adopted Bill 21-4 as presented.

Commissioner Mitrecic closed the legislative session.

Pursuant to the recommendation of Environmental Programs Director Bob Mitchell and upon a motion by Commissioner Bertino, the commissioners voted unanimously to renew the Independent Contractor's Agreement between Shockley Environmental Services (Bobby Shockley) and Worcester County for the review and recommendation of approval, denial, or revision of Stormwater Management (SWM) Plans and applications for exceptions and waivers as assigned by the County for a two-year period through June 30, 2023, with the contractor to receive 95% of the SWM fees collected by the County.

Pursuant to the request of Mr. Mitchell and upon a motion by Commissioner Church, the commissioners unanimously approved Waterway Improvement Fund Grant Agreement Modification No. 1 between the County and the Maryland Department of Natural Resources (DNR), regarding the provision of assistance from the U.S. Army Corps of Engineers for the Ocean City Inlet and Harbor project and the Section 204 scour hole study for the purpose of providing a no-cost extension and modified scope of work.

The commissioners met with Mr. Mitchell, a Sewer Committee representative, to review a request from Hugh Cropper, attorney for Salt Life Park, LLC and Mark Odachowski (owner), for the allocation of 34 equivalent dwelling units (EDUs) of sanitary sewer service from the Mystic Harbour Sanitary Service Area (SSA) for an expansion of 34 additional units, amenities, and associated open spaces at the existing Salt Life Park mobile home park located on the

southerly side of Old Bridge Road in West Ocean City (WOC) and more specifically identified on Tax Map 26 as Parcels 191 and 193. Mr. Mitchell advised that the property is currently zoned R-4 General Residential District and is designated S-1 (designated for sewer services within two years) in the County Water and Sewerage Plan, though this does not guarantee any service or obligate the provision of services in that time frame. He stated that the rear of this property is currently allocated six water and sewer EDUs, and if the EDU allocation request is approved, the applicant will also be required to purchase water service from the Mystic Harbour water system. He then reviewed current available capacity and options, which include option 1 – approve the allocation for 34 EDUs by utilizing one EDU from the Vacant or Multi-Lot category from area two, with the owner to surrender the 45 EDUs allocated to the ODIE-1, LLC (Alamo Motel) property on October 23, 2018; and option 2 – deny the request for allocation of 34 EDUs to this property.

In a February 25, 2021 letter to the County, Mr. Cropper advised that the expansion property was originally located in the WOC SSA, with a portion located in the Mystic Harbour SSA. However, the commissioners expanded the Mystic Harbour SSA to include the entirety of the expansion property making it eligible to purchase sewer EDUs from this SSA. He requested the Commissioners credit Mr. Odachowski for the \$90,000 deposits he made in 2018 and 2019 toward the purchase of 45 EDUs awarded to the ODIE-1, LLC (Alamo Motel) in 2018 and either transfer 34 of the 45 EDUs to the mobile home park expansion (with his client to return the remaining 11 EDUs), or allocate 34 EDUs for the mobile home park expansion, with Mr. Odachowski to turn the 45 EDUs back into the County.

Commissioner Bunting opposed requiring Mr. Odachowski to surrender 45 EDUs. In response to his questions, Mr. Mitchell advised that Mr. Odachowski has paid \$90,000 and \$95,000 in nonrefundable accessibility charges, and those funds have already been spent on operational costs within the service area. He recommended the Commissioners postpone making a decision on the allocation until conferring with County Attorney Roscoe Leslie and the County finance team. Mr. Cropper advised that his client has already paid fees of \$157,000 for the 45 unused sewer EDUs and expressed concern that, if his client agrees to surrender those EDUs today without a decision on the associated fees, County staff could recommend not issuing the requested credit.

Commissioner Bertino asked if the County has redirected a deposit to other EDUs in the past. Mr. Mitchell stated that the County has not, but did pass Resolution No. 20-25 granting a six-month extension to the deadline for annual EDU deposits for development projects that have been allocated Mystic sewer EDUs but have not been placed into services due to the COVID-19 emergency, and Mr. Odachowski took advantage of that extension. He recommended that, if the Commissioners approve this request, they do so by way of a new resolution that parallels Resolution No. 20-25 based on continuing circumstances related to the COVID-19. Chief Administrative Officer Harold Higgins advised that any surrendered EDUs must be returned to the original category from which they were allocated, as the allocation tables were approved for the Mystic Harbour SSA by the Maryland Department of the Environment.

In response to additional questions by Commissioner Bertino, Mr. Ross stated concern that this customer purchased 45 EDUs from the commercial category that sat in an account for three years, making them unavailable for any other commercial requests and the request before the commissioners today is a backdoor way to transfer EDUs, which is essentially creating a new policy on the fly.

In response to additional concerns raised by Commissioner Bertino regarding unpaid quarterly fees on the 45 EDUs, Mr. Odachowski reviewed the history of the Alamo property, noting that prior plans to construct two restaurants on the site became unfeasible due to the COVID-19 pandemic, and he would like to move the EDUs allocated for these projects to the mobile home park to create additional affordable housing in West Ocean City. He advised that for these reasons he requested approval to transfer the 45 EDUs last year, but the COVID-19 crisis brought everything to a standstill. Commissioner Elder acknowledged that this request should be considered due to the unforeseen issues that resulted due to the pandemic.

Following much discussion and upon a motion by Commissioner Bunting, the commissioners voted 6-0-1, with Commissioner Purnell abstaining, to approve the request to allocated 34 EDUs for the Salt Life Park mobile home park and agreed to credit \$45,000 of previous EDU deposits to this project. They further agreed to waive \$38,052 in operating, maintenance, and debt service charges assessed from June 30, 2020 to March 31, 2021 for the Alamo Motel, based on the surrendering of the 45 EDUs allocated to the Alamo Motel.

The commissioners resumed their legislative session.

The Commissioners conducted a public hearing on Bill 21-5 (Zoning – Off-premises signs), which was introduced by Commissioners Bertino, Bunting, Church, Elder, Mitrecic, Nordstrom, and Purnell on April 20, 2021. Mr. Tudor reviewed the bill, which would allow billboards to take advantage of the non-conformity provisions of ZS 1-122 relative to reconstruction and to remove the prohibition on reconstruction of billboards subject to a certain amount of destruction. He then advised that the Planning Commission gave a favorable recommendation to the text amendment based on the addition of the following three conditions: maintaining a prohibition on the reconstruction of a billboard by Board of Zoning Appeals action for signs not destroyed by a force of nature; limiting replacement materials to in-kind; and prohibiting an electronic messaging component.

Commissioner Mitrecic opened the floor to receive public comment.

Hugh Cropper, attorney for John H. Burbage, Jr. concurred with the Planning Commission's findings.

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

Upon a motion by Commissioner Bertino, the Commissioners unanimously adopted Bill 21-5 (Zoning – Off-premises signs) based on the three conditions proposed by the Planning Commission.

The Commissioners closed the legislative session.

Mr. Mitchell provided the Commissioners with a financing update on the project to install a gravity sewer system and central grinder pump station to connect Lewis Road community properties to public sewer at the Landings Wastewater Treatment Plan (WWTP), where capacity is being reserved for these properties. He advised that the United States Department of Agriculture (USDA) has approved a \$500,000 loan with an interest rate of 1.375% for 40 years and a \$1,480,800 grant, and he recommended scheduling a public hearing to receive public comment on the project. He then reviewed all of the available funding options, to include accepting the USDA financing package as submitted; using County funds for a one-time grant to assist with construction costs on the homeowner side to connect the existing properties to sewer and abandon the existing septic systems, or use a portion of the American Rescue Plan Act

(ARPA) funds allocated to the County to cover the loan repayment included in the USDA package.

Commissioner Bunting stated his full support for accepting the grant and low-interest loan from the USDA, but that he could not support either a County grant or the use of stimulus funds at this time. Instead, he urged the commissioners to wait until after their next work session on broadband to determine how to allocate ARPA money, after which he would support whatever decision the commissioners reach for any water or sewer projects. Commissioner Elder concurred, noting that the commissioners have conceptually agreed to allocate a majority of ARPA funding toward broadband, which would benefit the residents of Lewis Road. He confirmed with Enterprise Fund Controller Michelle Carmean that residents in the Newark area pay \$1,400 annually toward sewer fees, but have received no grant relief from the County, while Lewis Road residents will only be required to pay \$1,242 annually.

Commissioner Bertino agreed that this project needs to move forward, but in the interest of fairness he could not support treating one community differently than any other. He noted that the County has not previously provided such support to similar projects. Mr. Mitchell stated that County staff will be presenting options to provide similar grant relief to other area sewer projects as well in the near future.

Commissioner Mitrecic noted that ARPA funding was not available at the time the Newark spray irrigation project moved forward; however, those residents could also request grant funding to help defray their costs. Commissioner Purnell stated that repaying the USDA loan will result in financial hardships for those who reside on Lewis Road; therefore, she proposed using ARPA funding to defray the USDA loan costs.

Following some discussion and upon a motion by Commissioner Purnell, the Commissioners voted 4-3, with Commissioners Church, Mitrecic, Nordstrom, and Purnell voting in favor and Commissioners Bertino, Bunting, and Elder voting in opposition, to accept the USDA grant of \$1,532,500 for the project and to replace the USDA loan with ARPA funds.

Upon a motion by Commissioner Bertino, the Commissioners unanimously adopted Resolution No. 21-12 adopting the Solid Waste Enterprise Fund Budget and Fees for July 1, 2021 through June 30, 2022 and Resolution No. 21-13, adopting Sanitary Service Area Budgets, Assessments, and Charges, and Establishing Classifications for July 1, 2021 through June 30, 2022, as conceptually approved after their public hearing on June 1.

Commissioner Bertino expressed his support of the Ocean City Police Department and law enforcement throughout the County in light of recent events.

Commissioner Purnell thanked her fellow Commissioners for supporting the Lewis Road sewer extension project.

In anticipation that Governor Larry Hogan will lift the state of emergency in Maryland during a press conference scheduled to take place that afternoon and upon a motion by Commissioner Bertino, the Commissioners agreed to follow the governor's lead, which would include lifting the local state of emergency.

Upon a motion by Commissioner Bunting, the Commissioners unanimously agreed to

send a letter to Governor Hogan opposing Senate Bill 762 (Maryland Electrician's Act – Revisions), which would negatively impact electricians currently operating in Worcester County following an update from staff on a Maryland Association of Counties (MACo) Zoom meeting on this legislation.

The Commissioners answered questions from the press, after which they adjourned at 12:00 p.m. to meet again on July 6, 2021.