

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

September 3, 2019

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

Following a motion by Commissioner Bertino, seconded by Commissioner Nordstrom, with Commissioners Elder and Mitrecic absent from the vote, 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), (4), (7), and (8) 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, Assistant Chief Administrative Officer Kelly Shannahan, County Attorney Maureen Howarth, Public Information Officer Kim Moses, Human Resources Director Stacey Norton, and Recreation and Parks Director Tom Perlozzo. Topics discussed and actions taken included: rehiring Joseph Fuchsluger as a Plant Operator III for the Water and Wastewater Division of Public Works; reviewing a leave of absence request; reviewing pending litigation; discussing a business organization to expand or remain in the State; receiving legal advice from counsel; and performing administrative functions, including: receiving the FY19 monthly financial update.

Following a motion by Commissioner Mitrecic, seconded by Commissioner Nordstrom, the Commissioners unanimously voted to adjourn their closed session at 9:34 a.m.

After the closed session, the Commissioners reconvened in open session at 10:00 a.m. Commissioner Purnell called the meeting to order, and following a morning prayer by Arlene Page and pledge of allegiance, announced the topics discussed during the morning closed session.

The Commissioners reviewed and approved the August 20, 2019 closed session minutes as presented and open session minutes as amended.

The Commissioners observed a moment of silence to honor Guy R. Ayres, III, longtime Ocean City Solicitor who passed away August 31, 2019, and to pray for Hurricane Dorian victims.

The Commissioners presented a proclamation recognizing September as Suicide Prevention Month to Health Department Planning, Quality and Core Services Director Jennifer LaMade, Jesse Klump Memorial Fund Board President Kim Klump and Secretary Ron Pilling,

and Susan Schwarten of the Governor's Commission on Suicide Prevention, which highlights special events that will take place during September, as part of the public awareness campaign, including the *Out of Darkness* Walk to Prevent Suicide on September 21, 2019 at Caroline Street on the Boardwalk in Ocean City. To learn the warning signs and risk factors for suicide, please visit <http://worcesterhealth.org>.

The Commissioners presented a proclamation recognizing September as Worcester Goes Purple as part of National Recovery Month to Debbie Smullen, the Worcester Goes Purple event coordinator for the Board of Education (BOE), and team partners from the BOE, Atlantic General Hospital, Worcester County Health Department, Worcester County Warriors Against Opioid Addiction, and Senator Mary Beth Carozza's office. Ms. Smullen thanked the Commissioners and area partners for working together to continue to increase community awareness about opioid addiction, and she invited the public to take part in the board walk on September 7, 2019.

Pursuant to the recommendation of Housing Program Administrator Jo Ellen Bynum and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved the Notice to Public of Intent to Request Release of Funds on or about September 20, 2019 from the Maryland Department of Housing and Community Development (DHCD) to release Community Development Block Grant (CDBG) funds of \$769,368 to rehabilitate 18 homes owned by low to moderate income families through the Worcester County Housing Rehabilitation Program. Ms. Bynum advised that the County has prepared an Environmental Review Record identifying the 2020 Worcester County Housing Rehabilitation Project as Categorically Excluded under the National Environmental Policy Act of 1969, making the County eligible to apply to the State for the release of this reserved grant funding.

Pursuant to the written request of Superintendent of Schools Louis H. Taylor and upon a motion by Commissioner Bertino, the Commissioners unanimously approved inter-category budget transfers from Instructional Salaries (\$825,343) and Operation of Plant (\$129,511) to offset overages in Administration (\$113,617), Instructional Support (\$144,695), Special Education (\$403,031) and Student Transportation (\$293,511) for the fiscal year ending June 30, 2019 to address increased instructional software, special education, transportation and maintenance costs experienced in FY19.

Upon a motion by Commissioner Mitrecic, the Commissioners unanimously requested to receive a copy of the FY20 BOE detailed, line-by-line budget for their review.

Pursuant to the request of Local Management Board (LMB) Director Jessica Sexauer and upon a motion by Commissioner Mitrecic, the Commissioners unanimously awarded the highest-scoring proposals to local vendors to implement the following programs: Telamon Corporation (35.4 out of 42 points) at a cost of \$150,000 for Worcester Education, Employment and Empowerment (WE3) program targeting disconnected youth ages 16-24 who are not working and not in school; Worcester County Health Department (39 out of 42 points) at a cost of \$149,993 for Building Bridges to Stable Families to help reduce the impact of incarceration on children, parents, and families; and Worcester Youth and Family (32.5 out of 42 points) at a cost of \$150,000 for Worcester Connects, a mentor program targeting 6<sup>th</sup> to 12<sup>th</sup> grade students who

are truant and/or have been bullied.

The Commissioners reviewed a memo from Chief Administrative Officer Harold Higgins regarding a possible unrestricted grant increase to the Town of Pocomoke City based on 10% of table games revenues received by Worcester County from the Ocean Downs Casino, as requested by Commissioner Nordstrom. Upon a motion by Commissioner Nordstrom, the Commissioners unanimously agreed to table this request until FY21 budget deliberations.

Pursuant to the recommendation of Public Works Deputy Director John Ross in response to a request by Steen Associates, Inc. President Marvin Steen and upon a motion by Commissioner Bertino, the Commissioners unanimously approved an extension of the Small Project Agreement for Construction of Water and Sewer Utilities at Triple Crown Estates from October 1, 2019 to October 1, 2020. Mr. Ross advised that Steen Associates only recently began constructing the subdivision, and it is clear that construction will not be completed by the original deadline. He advised that staff has no concerns with extending the agreement.

Pursuant to the request of Mr. Ross and upon a motion by Commissioner Elder, the Commissioners unanimously agreed to waive the standard bid process and accept the proposal from Core & Main of Montross, Virginia at a total cost of \$193,875 for a bulkhead of 480 new 5/8" meter registers, one new 1 1/2" meter register, and 755 meter repair/upgrade packages. Mr. Ross explained that the batteries within the automated reading meters purchased between 2000 and 2007 last only 15 to 20 years and must be replaced. In response to a question by Commissioner Bertino, Mr. Ross advised that Core & Main is the sole source provider of this equipment.

The Commissioners conducted a public hearing to receive public comment on the proposal originally submitted by Attorney Mark Cropper on behalf of Last Stop Boardwalk, LLC (Phil Houck), owner of the property to relocate an approximate 490-foot section of the Kitts Branch Tax Ditch, as a part of a proposed development of the property located on the northwestern corner of Ocean Gateway and North Main Street in Berlin and more specifically identified on Tax Map 25 as Parcel 460, Lot 1. Environmental Programs Director Bob Mitchell summarized the history of the request, noting that at their February 19, 2019 meeting the Commissioners unanimously accepted the proposal from J. W. Salm Engineering, Inc. for engineering services, and Mr. Salm had worked with the Kitts Branch Board of Viewers, County staff, and Mr. Houck's engineer to address all of the concerns and issues that had been identified, those recommendations were incorporated into the proposal, and the Kitts Branch Board of Viewers recently completed their review and gave the proposal a favorable recommendation, subject to the conditions included in their report, with the owner to pay the estimated cost of \$90,000 to complete all drainage improvements.

Commissioner Purnell opened the floor to receive public comments.

Attorney Pete Cosby, representing Last Stop Boardwalk, LLC, advised that the Kitts Branch Board of Viewers report is comprehensive, and noted that his client agrees with the conditions therein.

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

Upon a motion by Commissioner Church, the Commissioners unanimously approved the

relocation as requested, subject to the applicants meeting the conditions included in the report from the Kitts Branch Board of Viewers.

President Purnell thanked the volunteer Board of Viewers for their time, including members Robert Shockley, David Bradford, Lee Gillis, John Ross, and Alan Hudson.

Pursuant to the request of Mr. Ross and upon a motion by Commissioner Elder, the Commissioners unanimously awarded the sole bid to replace the Riddle Farm Wastewater Treatment Plant (WWTP) flow equalization tank to Chesapeake Turf, LLC of Salisbury, Maryland under Option 2 (Stainless Steel Tank) at a total lump sum price of \$414,330.00. In response to a question by Commissioner Bertino, Mr. Ross stated that the design engineer and County staff agreed that the additional life of the stainless steel tank more than justifies the \$46,230 cost difference for this product rather than replacing it with a glass-lined steel tank, which will have a shorter life expectancy. Funding for the project will be derived from the 2019 County bond (\$25,000) and a short-term intergovernmental loan in anticipation that the balance will be reimbursed by the sale of equivalent dwelling units (EDUs) in the service area.

Mr. Ross reviewed bids for the purchase of pipe for the Roads Division of Public Works. Upon a motion by Commissioner Bertino, the Commissioners unanimously awarded the best bid for the provision of riveted galvanized steel corrugated metal pipe and HDPE double-wall plastic pipe for use within the Roads Division of Public Works to Ferguson Waterworks of Salisbury, Maryland at a total cost of \$32,684.40. While the bid from Lane Enterprise of Bealton, Virginia was slightly lower, by \$409.29, the Commissioners determined that the bid from the local vendor was the best bid.

The Commissioners conducted a public hearing to receive public comment on an application submitted by Attorney Hugh Cropper, IV on behalf of Evergreen Village, LLC to establish a Residential Planned Community (RPC) floating zone on the 94.7-acre property (currently zoned R-1 Rural Residential and RP Resource Protection Districts) formerly known as Pine Shore Golf North. The property, which is located on the northwesterly side of Beauchamp Road, north of MD Rt. 589 (Racetrack Road), and more specifically identified on Tax Map 15 as Parcels 127 and 259, is proposed for development as a 90-lot, single-family-dwelling subdivision, with no commercial uses. Parcel 127 abuts the River Run subdivision, and Parcel 259 abuts the St. John Neumann Catholic Church property. Staff members present at the hearing were Development Review and Permitting (DRP) Director Ed Tudor and Zoning Administrator Jennifer Keener. County Attorney Maureen Howarth informed the public of the procedure in the RPC hearing. She then swore in the four individuals who planned to give testimony during the hearing.

Ms. Keener stated that 90.4 acres are located within the R-1 Rural Residential District, with the remaining 4.3 acres in the rear of the property located in the RP Resource Protection District, noting that Parcel 127 is within an Existing Developed Areas (EDA) land use category and is consistent with uses outlined in the Comprehensive Plan. She advised that, while Parcel 259 is within the Agricultural land use category, this property was utilized as a commercial golf course for many years, and the conversion of the golf course into a residential subdivision will not result in the loss of agricultural production, nor would it be incompatible with the surrounding neighborhood. As justification for their recommendation to rezone the property to

R-1 Rural Residential District, the Planning Commission found that Windmill Creek would have been a more accurate boundary between the Existing Developed Area and the Agricultural land use categories. She stated that proposed open space totals approximately 57.18 acres, consisting of 46.07 acres of uplands and 11.11 acres of non-tidal wetlands and ponds. Within this total, three acres of active recreation and 15 acres of passive recreation are proposed. The remaining open space is proposed to remain in its natural state. Ms. Keener further stated that the Step I RPC plan indicates that there will be one point of access to the project from Beauchamp Road, with no adverse impact on traffic and transportation patterns, and will be served by public water and sewer from the Ocean Pines and River Run Sanitary Service Areas (SSA), respectively. Therefore, the Planning Commission gave a favorable recommendation to the request to establish the RPC floating zone for Evergreen Village.

Commissioner Purnell opened the floor to receive public comment.

Mr. Cropper concurred with staff's findings and asked the Commissioners to accept these findings as his testimony as well.

Bob Hand, land planner and project engineer, testified that the proposed project is predominantly located in an EDA and suited for infill development around Ocean Pines. He reviewed project plans to develop a 90-lot, single-family subdivision in one phase, with no commercial uses, and highlighted the project's consistency with the Comprehensive Plan and Zoning Ordinance.

Rodney Carpenter, civil engineer and water and sewer design engineer, testified that the existing well on the property will be decommissioned and capped off. He stated that the proposed project is feasible from an engineering and technical point of view, noting that adequate public water and sewer facilities exist to serve this project as confirmed by a recent Water and Sewerage Plan amendment. He further stated that project plans meet or exceed all stormwater management requirements.

Chris McCabe, environmental consultant and owner of Coastal Compliance Solutions, testified that the petitioned area includes several ponds that were nontidal wetlands, several of which are proposed to be enlarged and several others to be filled in to accommodate road construction. He noted that the property includes a forest conservation easement, and concluded that this project satisfies all requirements to protect key environmental features and meets stormwater requirements by discharging into the wetlands on this property.

Sheila Zimmer, representing St. John Neumann Catholic Church, requested that the developer adhere to his verbal agreement to plant a natural buffer between the church property and the proposed subdivision. Mr. McCabe confirmed that the project will include the planting of red cedars or white pines, which are native species, as buffers.

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

Upon a motion by Commissioner Mitrecic, the Commissioners unanimously adopted the Planning Commission's Findings of Fact and approved the RPC.

The Commissioners recessed for five minutes.

Pursuant to the recommendation of Emergency Services Director Billy Birch and upon a motion by Commissioner Bertino, the Commissioners unanimously authorized Commission President Purnell to sign the Sixth Amendment to System Purchase Agreement between the County Commissioners (Buyer) and Harris Corporation (Seller) to provide an 800 MHZ P25 Radio System Migration (Agreement). Those in attendance at the meeting included Emergency

Services Assistant Director James Hamilton and representatives from Harris Corporation, Jim Magee and Scott Targeman, and Adam Nelson with Federal Engineering (FE), the County's consultant on this project. Mr. Birch stated that this amendment removes work from the contract that has been completed by County staff, provides a credit for said work, and provides for the installation of an in-building amplification system to address in-building coverage concerns within the Newark Fire Station, as required within the System Purchase Agreement. He further noted that this sixth amendment does not constitute a final acceptance or a final payment agreement.

Pursuant to the request of Public Works Deputy Director John Ross and upon a motion by Commissioner Mitrecic, the Commissioners unanimously awarded the low bid to Chesapeake Paving & Sealing, Inc. of Salisbury, Maryland for County-wide blacktop surfacing of roughly 11.45 miles of roads requiring approximately 12,471 tons of bituminous concrete at a fixed price of \$73.50 per ton, and also including Option 1 (trim shoulders) at a fixed price of \$25,000 and Option 2 (fill shoulders) at a fixed price of \$25,000 for a total estimated cost of \$966,618.50.

Pursuant to the recommendation of Mr. Ross and upon a motion by Commissioner Bertino, the Commissioners unanimously approved bid specifications to purchase 17 vehicles, as approved in the FY20 County Operating Budget as follows: on standard sedan for Development Review and Permitting; one compact 4x2 cargo van for Information Technology; two SUV full-size 4x4 with police packages and three SUV full-size 4x2 with police packages for the Sheriff's Office; one, one-ton 4x2 full-size cargo van for the County Jail; one 3/4-ton 4x4 full-size crew cab pickup truck for the Fire Marshal's Office; one 3/4-ton 4x4 full-size pickup truck with snow plow for the Department of Public Works (DPW) Maintenance Division; one 1 1/2-ton 4x4 crew cab truck chassis with dump body and snow plow for the DPW Roads Division; and one 1 1/2-ton 4x2 crew cab truck chassis with dump body, three 3/4-ton 4x4 full-size pickup trucks, and two 1/2-ton 4-x full-size pickup trucks for the DPW Water and Wastewater Division. In response to a question by Commissioner Mitrecic, Fleet Management Superintendent Derrick Babcock confirmed that bid specifications for the police vehicles paint color is blue velvet metallic.

Pursuant to the request of Mr. Ross and upon a motion by Commissioner Bunting, the Commissioners unanimously agreed to schedule a public hearing on October 15, 2019 to receive public comment on the proposal to accept Arcadia Circle in the Arcadia subdivision into the County Roads Inventory.

Mr. Ross reviewed the results of the recent online auction of County surplus property on GovDeals.com and stated that the County earned \$79,133.79 through the auction, with \$300 to be refunded to the Solid Waste Enterprise Fund and \$13,710.77 to be refunded to the Water and Wastewater Enterprise Fund, with the balance to the County's General Fund.

Environmental Programs Director Bob Mitchell presented the Commissioners with a proposed list of local priorities for U.S. Army Corps of Engineers projects, which was developed in response to a recent request from Senator Ben Cardin's office seeking the County's top funding priority projects in the upcoming federal budget process. Upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved the list as presented, which includes the following projects: inlet navigation improvement project to deepen the channel in

the Ocean City Inlet, with plans to be completed in 2020 and work to start in 2021; scour hole study, undertaken in 2017, with options to be developed in 2019 and public review in summer 2020 to address a scour hole estimated to be at least 50 feet deep near Homer Gudelsky Park that is threatening shoreline stability; long-term sand management plan for the Assateague Island restoration project to repair and stabilize island erosion caused by the jetties at the Ocean City Inlet; continued navigation maintenance dredging for the Ocean City Inlet; and projects that have no program association at this time, which include correction of the eroded portion of the northern tip of Assateague Island, reshaping jetties off the northern tip of Assateague and installing a return to prevent or lessen future erosion, and beneficial use of dredged material to supply resiliency projects and possibly restore and replenish created islands in Assawoman and Sinepuxent Bays.

Pursuant to the recommendation of Recreation and Parks Director Tom Perlozzo and upon a motion by Commissioner Mitrecic, the Commissioners voted 5-2, with Commissioners Bertino and Bunting voting in opposition to adopt Resolution No. 19-28 designating a portion of the West Ocean City (WOC) Harbor for County use or County joint ventures. Mr. Perlozzo stated that there is space at the WOC Harbor to the west of the Governor's Dock, between said Dock and the recreational boat ramp (directly in front of the public restrooms) that is not in use, does not meet the definition of the commercial section of the Harbor as defined in Section CG 4-405 of the County Code nor does said space meet the definition of the "recreational section" defined as "That portion of the West Ocean City Harbor wherein the County Commissioners have installed a boat ramp and shall constitute an area as from time to time determined by the County Commissioners by resolution." He concluded that CG 4-405(c)(1) states "that the County Commissioners may reserve portions thereof for other public purposes as may be from time to time determined by the Commissioners." Thus, the Commissioners have the ability to reserve space for other purposes by resolution, and Resolution No. 19-28 designates the space, which is approximately 64 feet in length running along the bulkhead from the Worcester County boat ramp to the area known as the Governor's Dock on the north side of the Harbor, which shall be reserved for use by the County or County joint ventures.

Commissioner Bunting stated that he has been opposed to this County lease or County joint venture area from the beginning since it takes this area away from public use and since the Commissioners have never previously permitted commercial uses at County boat ramps, and for those reasons he could not support Resolution No. 19-28.

Pursuant to the request of Mr. Perlozzo and upon a motion by Commissioner Mitrecic, the Commissioners voted 5-2, with Commissioners Bertino and Bunting voting in opposition to schedule a public hearing on October 1, 2019 to receive objections on a proposal to enter into a license agreement with Thrive Engineering, LLC (Licensee), to grant a license to the licensee for space to dock the sailing vessel, Alyosha, at the WOC harbor in the County joint venture area that is approximately 64 feet in length and running along the bulkhead from the Worcester County boat ramp to the Governor's Dock for five years beginning on October 1, 2019 and ending on September 30, 2024, with a possible one-year renewal by mutual consent, with a minimum annual rental fee of \$8,500.00; the County would receive the first \$8,500 generated by selling advertising on each sail, with any additional revenues to be split 50/50 by the County and Mr. Butz; provisions for area use and clean up; only the vessel indicated within the document

may be docked at the slip; all insurance must be up to date with provisions specified by the County; exclusive rights for the County to sell advertising on the indicated sails; and a non-Compete clause for any termination or early termination as it relates to sponsor revenues.

In response to a notice from the U.S. Army Corps of Engineers (COE) entitled “Atlantic Coast of Maryland Shoreline Protection Project Draft Findings of No Significant Impacts and Environmental Assessment: Offshore Shoals in Federal Waters as Sand Sources,” and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Commission President Purnell to sign a letter to the COE strongly requesting dredging activities be avoided in the vicinity of Shoal B to protect vital bass grounds, due to the negative effect on the sportfishing industry in Worcester County.

Upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Commission President Purnell to sign a letter to Governor Larry Hogan opposing a request they received from the Dorchester County Council requesting that the State stop the conversion of the Eastern Correctional Institution's (ECI) energy source from woody biomass to natural gas. Commissioner Mitrecic further explained that this response was in support of Somerset County Government, which has been working diligently to encourage the extension of a natural gas pipeline for decades which, if successful, may eventually be extended to the Pocomoke City area to the benefit of the residents and businesses in that area and because without anchors, such as the University of Maryland Eastern Shore (UMES) and ECI, the natural gas extension project may not be viable.

Commissioner Mitrecic requested scheduling of a letter from the Ocean City Mayor and Council requesting State legislation to authorize the collection of room tax and food tax within the corporate limits of the town to be permitted to be transferred from the County to the Town of Ocean City for discussion at a future meeting.

Commissioner Bertino requested staff update the Commissioners on the status of constructing a second gate in the Commissioners Meeting Room.

Commissioner Elder requested County staff look into installing additional lights in the Northern Worcester Athletic Complex in the vicinity of the Pop Warner football fields and the parking lot.

The Commissioners answered questions from the press, after which they adjourned to meet again on September 17, 2019.