

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

June 7, 2022

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 Nordstrom, seconded by Commissioner Purnell, the commissioners unanimously voted to meet in closed session at 9:00 a.m. in the Commissioners' Meeting 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 Weston Young, Deputy Chief Administrative Officer Joe Parker, County Attorney Roscoe Leslie, Public Information Officer Kim Moses, and Human Resources Director Stacey Norton. Topics discussed and actions taken included the following: hiring David Candy as superintendent within the Solid Waste Division of Public Works and certain personnel matters; receiving legal advice from counsel; and performing administrative functions, including receiving FY21 monthly financial update.

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 Reverend George Tasker of Abundant Life Apostolic Church of Pocomoke and pledge of allegiance, announced the topics discussed during the morning closed session.

The commissioners reviewed and approved the May 10, 2022 open and closed budget work session minutes and May 17 open and closed session minutes as presented.

The commissioners presented a proclamation to Department of Social Services professionals recognizing June 2022 as Elder Abuse Awareness Month and June 15 as Elder Abuse Awareness Day in Worcester County.

The commissioners presented a proclamation to Ivory Smith, president of the Worcester County Branch of the NAACP, and other NAACP members recognizing June 19, 2022 as Juneteenth, National Freedom Day, in Worcester County.

The commissioners presented commendations to Worcester Technical High School (WTHS) students who took first place in their respective categories during the 2022 SkillsUSA

Maryland State Championships in Baltimore. These include Kayla Layfield, Miah Schwind, and Brianna Angelo in the American Spirit category; Kayla McManus, Joey Guard, and Mackensie Martinez in the Crime Scene Investigation category, Myra Cropper and Briggs Pugner in the Mobile Robotics category, and Matthew Beck in the Principles of Engineering category.

The commissioners presented a commendation to Pocomoke High School (PHS) junior Marli McDorman for taking first place in the 2022 Maryland 1A Girls State Tennis Championship. Miss McDorman is the first PHS student to earn this title.

Upon a motion by Commissioner Nordstrom, the commissioners unanimously approved by consent agenda item numbers 2-6 as follows: working with Maryland Environmental Services and Maryland Department of the Environment to host Citizens Tire Drop-Off Day on one of three potential dates, September 3, 10, or 17, 2022; updates to the Housing Rehabilitation Program plans, including the Worcester County Residential Anti Displacement and Relocation Assistance Plan and Community Development Block Grant Citizen Participation Plan for Worcester County; the Governor's Office of Crime Control and Prevention FY23 Grant Application for level funding 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; a mini-grant award of \$500 from the Worcester County Arts Council for the Art in the Park program being planned for fall 2022 at Newtown Park; the bid from George, Miles, and Buhr, LLS of Salisbury of \$12,500 for engineering services for the South Point boat landing project, with Waterway Improvement Funds of \$250,000 available for the project.

Pursuant to the recommendation of Public Works Director Dallas Baker and upon a motion by Commissioner Nordstrom, the commissioners unanimously awarded the low bid for custodial services at 26 County facilities for a period of two years to Sentral Services, LLC at a cost of \$291,790.20 per year for a total cost of \$583,580.40.

Pursuant to the request of Public Works Deputy Director Chris Clasing and upon a motion by Commissioner Nordstrom, the commissioners unanimously approved bid specifications for site operation and security upgrades at the Bishopville Homeowner Convenience Center, with funds of \$230,378 available within the FY22 budget for this expense.

Pursuant to the request of Mr. Baker and upon a motion by Commissioner Bunting, the commissioners unanimously agreed to adjust staff operating hours from eight hours per day, five days per week to 10 hours per day, four days per week within the Maintenance Division of Public Works for a three-month trial period. Mr. Baker advised that the Maintenance Division would remain open five days per week with half of the 22-member team to work Monday through Thursday and the other half to work Tuesday through Friday, with no change to after-hours, emergency, on-call procedures. He advised that the new schedule will improve productivity and retention and lower vehicle fuel costs. Commissioner Mitrecic commended staff for proposing this change, noting that most large towns and counties have already instituted similar operating hours.

The commissioners met with Mr. Baker to discuss paying a fee of \$16,686 to the Maryland Department of the Environment (MDE) to settle a total of 15 sanitary sewer overflows that occurred between July 2017 and December 2021. Mr. Baker stated that Public Works received a letter from MDE on January 12, 2022 requesting copies of 23 different SSO reports, and after sending the requested materials were informed that MDE agreed to waive eight SSOs related to weather or contractor error, while 15 SSOs that occurred within Ocean Pines (5), West Ocean City (3), Riddle Farm (5), Mystic Harbour (1), and Assateague Point (1), were subject to a fine.

Upon a motion by Commissioner Nordstrom, the commissioners unanimously approved the SSO settlement of \$16,686 with MDE as proposed.

The commissioners met with Chief Administrative Officer Weston Young and Jenelle Gerthoffer, the natural resources administrator within Environmental Programs, to review a request from Hugh Cropper, representing Sun TRS Frontier, LLC for allocation of 38 equivalent dwelling units (EDUs) of sanitary sewer service from the Mystic Harbour Sanitary Service Area (SSA) to serve Phase II construction of an additional 112 campsites within the Frontier Town Campground, which is located on the east side of MD Rt. 611, north of Assateague Road and more specifically identified on Tax Map 33 as Parcel 94. The 199.99-acre property is currently zoned A-2 Agricultural 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.

In response to questions by Commissioner Elder, Mr. Young advised that there are 20 EDUs available in the Mystic Harbour SSA for single family dwellings to connect failing residential septic systems.

Upon a motion by Commissioner Bunting, the commissioners unanimously approved Option 1 to approve the allocation for a total of 38 EDUs to the property by utilizing 31 EDUs from all the remaining categories in Area 2 and seven from the Commercial category in Area 1.

The commissioners met with Mr. Young to discuss a request from Ocean City Public Works Director Hal Adkins, on behalf of the Town of Ocean City, to return 12 EDUs (six water and six sewer) to the Mystic Harbour SSA that are assigned to Parcels 450A and 450B on Tax Map 26 on the east side of MD Rt. 611 in the vicinity of the Ocean City Municipal Airport and to receive some of the funds the County will receive when the EDUs are resold. Mr. Young explained that the town recently purchased these parcels to preserve land around the airport from being developed and has no intention of building on them. In a memo on the subject, Environmental Programs Director Bob Mitchell stated that, while this is a rather peculiar circumstance, the sanitary capacity, especially the sewer capacity, is currently much needed within the Mystic Harbour SSA.

In response to questions by Commissioner Bertino, Mr. Young confirmed that, historically, the County does not buy back EDUs; however, they could avoid setting a precedent in this situation by entering into a government-to-government contract to reacquire the 12 EDUs. Commissioner Bertino stated that since there is currently no contract, he would prefer to postpone voting on the request until staff can provide the commissioners with a draft for their review and consideration.

In response to questions by Commissioner Bunting, Deputy Finance Officer Jessica

Wilson stated that the County is currently selling water EDUs for approximately \$3,000 and sewer EDUs for \$8,900 for a total estimated cost of \$66,000. She confirmed that, if this request came from a private developer, the County would allow the individual to return previously purchased EDUs, which would save them from accruing future accessibility and debt service charges; however, the County would not buy back the EDUs.

Following some discussion and upon a motion by Commissioner Nordstrom, the commissioners voted 5-2, with Commissioners Bertino and Bunting voting in opposition, to repurchase six water EDUs and six sewer EDUs from the Town of Ocean City.

The commissioners met with Mr. Young to adopt the final proposed FY23 Operating Budget. Section 4-201 of the County Government Article of the Code of Public Local Laws of Worcester County requires that the commissioners adopt an expense budget and tax rates on or before the first Tuesday in June.

Upon a motion by Commissioner Bertino, the Commissioners voted 6-1, with Commissioner Elder voting in opposition, to approve the FY23 Board of Education (BOE) budget of \$100,285,947, which exceeds the State-mandated Maintenance of Effort by \$3,168,616.

Upon a motion by Commissioner Nordstrom, the Commissioners voted 5-2, with Commissioners Bertino and Bunting voting in opposition, to adopt Resolution No. 22 – adopting expense budgets and establishing tax rates for FY23. The FY23 budget includes \$226,916,778 in appropriations for the coming fiscal year. This reflects an increase of \$10,407,567 or 5% more than the FY22 budget while reducing the requested expenditures of \$229.6 million by \$2.7 million. Budget decisions were based upon current and projected trends along with anticipated fiscal year 2022 revenue surplus. The FY23 budget maintains the real property tax rate of 84.5¢ per \$100 of assessed value and the County's local income tax rate of 2.25%. Worcester County residents will continue to benefit from the lowest income tax rate and the 2nd lowest real property tax rate as compared to all other counties in Maryland. This fiscally conservative budget maintains funding for valuable public services residents can count on, such as public safety, education and infrastructure.

The commissioners met in a special legislative session.

The commissioners conducted a public hearing to receive comments on Bill 22-9 (Zoning – Separation Distance Between Antennas, Towers, and Telecommunication Uses and Residential Structures), which was introduced by Commissioners Church, Elder, Nordstrom, and Purnell on April 19, 2022. Development Review and Permitting Director Jennifer Keener advised that this bill would add a new subsection ZS 1-343(b)(2)B1(iii) to allow the separation distance between an antenna tower or telecommunication use and an existing or permitted residential structure on an adjacent parcel to be reduced from 1,000 feet to no less than 500 feet, provided a special exception is obtained from the Board of Zoning Appeals. The reduction would only apply in the A-1 and A-2 zoning districts and must be based on the protection of prime agricultural soils, avoiding wetlands and existing forested areas, and certain other environmental features. She further advised that the draft legislation received a favorable recommendation from the Planning Commission.

Commissioner Bunting stated that DRP staff previously confirmed that the existing legislation is adequate, the 1,000-foot are well thought out, and if there are environmental

conditions on the property, maybe it's the wrong property. Furthermore, this legislation would set a precedent that would allow every property to request the same thing. Therefore, he will not be supporting the draft bill.

Commissioner Mitrecic opened the floor to receive public comments.

Kristen Stelzer, development director for Arcola Towers, advised that Arcola Towers is working on several projects in underserved, rural areas of the County, with several applications in the works on this particular site. She respectfully disagreed with Commissioner Bunting, noting that it is an excellent site for a tower. However, it is a large family farm with family residences on the farm that are technically offsite, and there is no existing mechanism in the County Code to request a setback reduction to not less than 500 feet.

James Kurtz of Snow Hill asked the commissioners to support the legislation as presented. He stated that he was approached by Arcola Towers about the possibility of placing a cellphone tower on his property, which creates an exciting opportunity for his entire community, which has poor cell service. However, the proposed location of the tower is less than 1,000 feet from the property of his son, Josh Kurtz. The proposed location is roughly a small nook and not out in the middle of his property, which would cause a hardship to his farming operations. In response to a question by Commissioner Elder, Mr. Kurtz stated that he has been farming his land since 1976.

Josh Kurtz of Snow Hill advised that his neighbors are excited about having cellphone coverage in that area. He stated that all of the other sites Arcola Towers had pursued were protected by agricultural easements, making it very difficult to find an ideal location on those properties. Commissioner Elder stated that there is a serious need for improved cellphone coverage, and this bill offers a good compromise, with the BZA to consider this and potentially other future requests on a case-by-case basis. Commissioners Nordstrom and Purnell concurred. In response to a question by Commissioner Bertino, Ms. Keener stated that they cannot create site-specific legislation.

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

Following some discussion and upon a motion by Commissioner Nordstrom, the Commissioners voted 5-2, with Commissioners Bertino and Bunting voting in opposition, to adopt Bill 22-9 (Zoning – Separation Distance Between Antennas, Towers, and Telecommunication Uses and Residential Structures) as presented.

The commissioners conducted a public hearing to receive comments on an amendment to the Step I plan for the Sea Oaks Village Residential Planned Community (RPC) floating zone to add another 76 townhouse units to the development. Ms. Keener advised that the RPC is currently approved for 59 townhouse units and two commercial buildings, which are nearly completed. Zoning Administrator Kristen Tremblay advised that the subject property consists of approximately 39.9 acres of land located on the west side of MD Rt. 611, north of Sinepuxent Road and more specifically identified on Tap Map 26 as Parcel 274, Lot 3A and Parcel 473. She reviewed the project highlights, which include retaining large tracts of sensitive forested wetland areas, and she advised that the Planning Commission gave a favorable recommendation to the request to establish the RPC floating zone for Sea Oaks Village RPC Phase II, Step I plan.

Commissioner Mitrecic opened the floor to receive public comments.

Hugh Cropper, representing Sea Oaks, advised that the project was modified due to

equivalent dwelling unit (EDU) concerns and broken into two phases for a total of 135 units in a mixed use development.

Robert Hand, land planner and site planner for this 15-year project, advised that 135 units are planned for the portion of the property zoned R-3 Residential, which is considerably less than the permitted density of 214 units, and C-1 Neighborhood Commercial. He confirmed that the project meets all the requirements of an RPC, the entire project was already approved, and the first phase of the project was modified back to 59 units. In conclusion, he agreed with all seven of the Planning Commission's Findings of Fact.

Ronnie Brad, civil engineer and engineer for the Sea Oaks project, advised that the Stormwater management and entrance designs meet or exceed all requirements.

Corey Rommel, president of Mystic Harbour Homeowners Association (HOA), advised that the HOA is concerned about the negative impact this development could have on traffic on MD Rt. 611. He stated that MD Rt. 611 is already a dangerous road, particularly in the summer, and this project will add to that issue.

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

In response to questions by Commissioner Bunting, Mr. Cropper stated that the Maryland State Highway Administration (SHA) commissioned a traffic study that took into consideration the distance between the entrance of Sea Oaks and Mystic Harbour, SHA approved the entrance after moving it from its original location and requiring widening strips. He concluded that the commercial entrance and first townhomes have already been approved, and this project has been well-vetted and well-advertised.

Following some discussion and upon a motion by Commissioner Bunting, the commissioners unanimously approved the Step I plan for the Sea Oaks Village Residential Planned Community (RPC) floating zone and adopted the Findings of Fact.

The commissioners conducted a public hearing on Rezoning Case No. 435 for an application submitted by Hugh Cropper, IV on behalf of property owner Henry Robinson, which seeks to rezone approximately 0.5-acre of land located southwest of, but not binding on, Patey Woods Road, approximately 1,600 feet northwest of Newark Road, northwest of Newark, and more specifically identified on Tax Map 40 as Parcel 38, from V-1 Village District to A-1 Agricultural District. Development Review and Permitting Deputy Director Gary Pusey reviewed the application, which received a favorable recommendation from the Planning Commission. According to the application for rezoning, the applicants' claim as the basis for their rezoning request was that there was a mistake in the existing zoning. Mr. Pusey entered the Planning Commission's Findings of Fact into the record. He stated that the petitioned area was zoned A-1 from 1965 to 2009 when it was zoned V-1, with adjoining properties to the southwest zoned A-1 and adjacent properties on the north, east and south zoned V-1. He further stated that the Planning Commission concluded that is a mistake in the existing zoning, and that A-1 zoning would be more desirable in terms of the objectives of the Comprehensive Plan given its location on the periphery of the V-1 zoning area.

Mr. Cropper concurred with the Planning Commission's findings and asked that the commissioners accept the findings as his testimony as well. He reiterated that the property was zoned A-1 from and granting this rezoning would be correcting a mistake and not setting a precedent for future requests. He noted that the bedrock of the Zoning Code and the

Comprehensive Plan is agricultural zoning, and that this property was zoned A-1 in 1965 and remained A-1 until 2009 when the Village of Newark expanded slightly to take in this property. He stated that Mr. Robinson would like the agricultural zoning to be restored, which would allow him to install a small trailer with well and septic for his family to use.

Mr. Robinson concurred with Mr. Cropper's testimony and advised that he would like to put a small home on his property for his granddaughter to live in.

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

Upon a motion by Commissioner Elder, the commissioners conceptually adopted the Planning Commission's Findings of Fact as their own and approved the rezoning from V-1 to A-1, based on a mistake in the existing zoning.

The commissioners conducted a concurrent public hearing to consider applications filed by Hugh Cropper on behalf of KCK7, LLC, to amend the Comprehensive Water and Sewerage Plan and to expand the Mystic Harbour Sanitary Service Area (SSA) to include a single property located at 12325 Old Bridge Road in West Ocean City (WOC) and more specifically identified on Tax Map 26 as Parcel 156. Jenelle Gerthoffer, the natural resources administrator within Environmental Programs, advised that the subject property is identified as an Intensely Developed Area within the Coastal Bays Critical Area and is currently within the WOC Sewer Planning and Service Area, with a designation of S-1 (immediate to two years). The inclusion of this property within the Mystic Harbour SSA would not change the prior planning designation for the WOC sewer planning area. Rather it would only include the property within the Mystic Harbour SSA with an S-1 designation as well. She stated that the applicant requested the expansion to reach the adjacent Mystic Harbour SSA to serve future proposed development on the property, as only two equivalent dwelling units (EDUs) are allocated to the property at the present time from the WOC SSA. Furthermore, WOC EDUs are not easily available. She concluded that the Planning Commission found the proposed amendment to be consistent with the Comprehensive Plan.

Commissioner Mitrecic opened the floor to receive public comments.

Mr. Cropper stated that this property is in commercial center in the Land Use Plan, is zoned C-2 General Commercial District, there are no wetlands on the property, it is infill development, designated IDA in the Comprehensive Plan, it is a piece in a puzzle, and it did receive a unanimous favorable recommendation from the Planning Commission. He stated that his client is not asking for allocation of Mystic Harbour EDUs at this time. Rather this change is just for future flexibility when the Mystic Harbour Wastewater Treatment Plant is expanded or the two service areas are connected.

Steve Engle, landscape architect and KCK7 property consultant, advised that the property is zoned C-2 in an IDA in the Critical Area, making it a very developable piece of property, and he agrees with the staff report that the proposed amendment is consistent with the Water and Sewerage Plan.

In response to a question by Commissioner Bunting, Chief Administrative Officer Weston Young concurred that there are roughly 26 available sewer EDUs remaining in the Mystic Harbour SSA, and the issue with any future expansion of the Mystic Harbour Wastewater Treatment Plant will be identifying where to put the effluent. He reiterated that Mr. Cropper is not asking for EDUs, and EDUs may not be available when his client seeks to develop his

property.

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

Upon a motion by Commissioner Church, the commissioners unanimously approved the request to amend the Comprehensive Water and Sewerage Plan and to expand the Mystic Harbour SSA to include the subject property, and they accepted the Planning Commission's Findings of Fact.

The commissioners conducted a public hearing on the proposed FY23 Water and Wastewater Enterprise Fund operating budgets, assessments, user charges, and other charges for each of the 11 Sanitary Service Areas (SSA) and sub-areas operated by the Worcester County Department of Public Works, Water & Wastewater (W&WW) Division. Enterprise Fund Controller Barbara Hitch reviewed the proposed budgets for the County's various service areas. She advised that, in addition to user fees, a debt service assessment is levied to repay bonds and loans for capital improvements to the water and sewer infrastructure that is financed by the County, and all assessments are based per equivalent dwelling unit (EDU), with debt service charges in the Mystic Harbour, Ocean Pines, Newark, Riddle Farm, and Snug Harbour service areas or sub-areas.

Commissioner Mitrecic opened the public hearing.

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

Upon a motion by Commissioner Nordstrom, the commissioners conceptually approved the proposed FY23 W&WW Enterprise Fund operating budgets, assessments, user charges, and other charges, and agreed to adopt the formal resolution at their next meeting on June 21, 2022.

The commissioners conducted a public hearing on the Solid Waste Enterprise Fund FY23 Requested Operating Budget of \$4,810,926 for the Central Landfill in Newark (this budget does not represent operating costs for the homeowner convenience centers and Recycling, which were previously transferred from the Solid Waste Enterprise Fund to the General Fund). Ms. Hitch stated that this budget includes maintaining all of the existing rates.

Commissioner Mitrecic opened the public hearing.

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

Upon a motion by Commissioner Nordstrom, the commissioners conceptually approved the proposed FY23 Solid Waste Enterprise Fund operating budget and agreed to adopt the formal resolution at their next meeting on June 21, 2022.

Commissioner Bertino commended Deputy Chief Administrative Officer Joe Parker, a retired U.S. Navy commander, for the remarks he made as the keynote speaker during the Memorial Day ceremony at the Worcester County Veterans Memorial at Ocean Pines.

Upon a motion by Commissioner Bunting, the commissioners unanimously agreed to increase the per ambulance fee to \$15,000 per ambulance in the FY23 budget.

Commissioner Mitrecic announced the topics discussed during a recent meeting with Senator Ben Cardin, noting that proposed local projects, including the Ocean City Municipal Airport, seasonal workforce housing, and Worcester County Sports Complex, could be eligible



for federal grant funding, as several billion dollars in grant funding is to be allocated to Maryland. He urged County officials to remain informed about these opportunities as more information becomes available.

The commissioners answered questions from the press, after which they adjourned to meet again on June 21, 2021.