

Minutes of the County Commissioners of Worcester County, Maryland

May 17, 2016

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

Following a motion by Commissioner Mitrecic, seconded by Commissioner Purnell, 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: promoting John Foxwell from Maintenance Worker II to Chief Custodian and agreeing to advertise to fill the vacant Maintenance Worker II position within the Maintenance Division of Public Works; and agreeing to advertise to hire one License Permit Clerk II for Development Review & Permitting; receiving legal advice from counsel; and performing administrative functions.

After the closed session, the Commissioners reconvened in open session. Commissioner Bunting 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 May 3, 2016 meeting as presented.

The Commissioners presented a proclamation to Emergency Services Assistant Director James Hamilton recognizing May 15-21, 2016 as National Hurricane Preparedness Week and urging residents to pre-plan for weather related emergencies that could arise during the 2016 Atlantic hurricane season, which runs from June 1 to November 30. Mr. Hamilton stated that most but not all tropical cyclones form during the hurricane season and pointed out that the first named hurricane of 2016 occurred in January. He further stated that weather officials are predicting that 13 storms will occur this year, two of which are expected to be major. He stated that it is important for people to prepare now for potential storms, stating that it only takes one hurricane to cripple a community. He stated that the number one cause of storm damage stems from downed trees and urged residents to maintain trees on their properties. He further encouraged portable generators to be used well away from homes to avoid carbon monoxide poisoning. He suggested that all residents determine a safe place to go, perhaps with family or

friends, and to have a full tank of gas, as a loss of power means that gas will not be available.

Pursuant to the request of Housing Program Administrator Jo Ellen Bynum and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Commission President Bunting to sign a letter to Cindy Stone, Director of the Office of Community Programs for the Maryland Department of Housing and Community Development requesting a Housing Rehabilitation Grant Extension to extend the closing date of Worcester County's current housing rehabilitation grant from July 31, 2016 to March 31, 2017. Ms Bynum advised that the County has expended 42% of the original \$300,000 grant on nine projects, and an additional five projects are under construction or are in the bidding process, with a total of \$270,980.77 of the \$300,000 available having been obligated to these projects.

Pursuant to the request of Ms. Bynum and upon a motion by Commissioner Lockfaw, the Commissioners unanimously approved bid specifications for the general rehabilitation of a single family home in Pocomoke City, which is to be funded through the County's current Housing Rehabilitation Program Grant.

Pursuant to the recommendation of Budget Accountant Kim Watts and upon a motion by Commissioner Bertino, the Commissioners unanimously authorized Commission President Bunting to sign a Law Enforcement Training Scholarship (LETS) Grant Application for funding in the amount of \$4,950 through the Governor's Office of Crime Control and Prevention to cover the cost for 10 School Resource Officers within the Sheriff's Office to attend the Basic School Resource Officer training between July and September 2016.

Pursuant to the request of Heather Barton, Administrative Services Director for the Health Department, and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Commission President Bunting to sign a year round Lease Agreement for an apartment at 12 43rd Street, Unit No. 5 in Ocean City to be utilized primarily by the Health Department seasonal sanitarians, as well as visiting physicians in the off-season, from May 17, 2016 through May 16, 2017 at a cost of \$15,000.00, to be funded with a County allocation of \$11,000 and Health Department funds of \$4,000.

Pursuant to the request of Jessica Sexauer, Acting Director of the Local Management Board (LMB), and upon a motion by Commissioner Purnell, the Commissioners unanimously approved the LMB's grant proposal, written in response to the Governor's Office for Children's (GOC) Notice of Funding Availability (NOFA), for increased funding of up to \$375,000 to fund additional and existing program needs, many of which focus on reducing childhood hunger, youth homelessness, and providing resources to assist young people between the ages of 16-24 who are not in school or the workforce that will help them avoid behaviors that could lead to incarceration and to become productive members of society. Ms. Sexauer advised that the recent feedback from a community needs assessment completed in 2016 found that child maltreatment, substance abuse, and unemployment are the most prominent issues facing families in the County. She advised that the LMB plans to continue supporting the following programs in FY17: The Cricket Center, Comprehensive Parenting Program Initiative, Youth as One, Integrated Services

for Child Maltreatment, and Local Access Mechanism (LAM), which includes System/Family Navigation and Community Service Centers.

In response to a question by Commissioner Bertino, Ms. Sexauer confirmed that the LMB has advised the Board of Education (BOE) that the study identified a need for school guidance counselors to provide greater education and assistance to youth applying for college.

Pursuant to the written recommendation of Worcester County Health Officer Debbie Goeller with direction from the State Department of Health and Mental Hygiene, and Jennifer LaMade, Quality, Planning and Core Services Director for the Health Department, and upon a motion by Commissioner Bertino, the Commissioners unanimously adopted Resolution No. 16-8 abolishing the Worcester County Health Planning Advisory Council and establishing in its place Local Health Improvement Coalitions formed by the Health Officer, with a fluid membership of the group and with an emphasis on community coalition building.

Pursuant to the request of Library Director Jennifer Ranck and upon a motion by Commissioner Church, the Commissioners unanimously authorized Commission President Bunting to sign a letter of intent to Irene M. Padilla, Assistant State Superintendent for Libraries for the Maryland State Department of Education, certifying that the County will provide \$704,000 in matching funds for the Berlin Branch Library project for FY17, in support of the FY17 request for a Library Capital Grant from the State.

Pursuant to the request of Ms. Ranck and upon a motion by Commissioner Church, the Commissioners unanimously authorized Commission President Bunting to sign a letter of intent to Ms. Padilla certifying that the County will commit \$1,019,00 in matching funds for the Berlin Branch Library Project, in support of the FY18 request for a Library Capital Grant from the State.

Economic Development Director Merry Mears met with the Commissioners to request authorization to provide funding support to Hardwire, LLC in the amount of \$10,000 to assist the Pocomoke-based armor manufacturer to complete an infrastructure upgrade to provide the electrical capacity necessary to power the autoclaves and test and production equipment that will be installed to produce bridge and power infrastructure armor, as well as transparent armor. Ms. Mears stated that Hardwire has already invested \$1 million in an expansion project, and this additional scope of work is anticipated to cost \$300,000. She advised that a portion of the project funding is also available from the State in the form of a zero interest loan in the amount of \$85,000, and a \$10,000 grant from the Town of Pocomoke.

In response to a concerns by Commissioner Bertino that extending the grant could set a precedent, the Commissioners agreed that these types of requests should be considered upon their merit on a case-by-case basis. Ms. Mears concurred and noted that she is often contacted by area entrepreneurs regarding business startups and expansions, and she works with each on an individual basis to help them identify potential funding sources to complete their projects. She noted that this request is unique in that Hardwire plays a key role in economic development in Worcester County by providing 41 highly skilled, high wage earning jobs to County residents, and she pointed out that the average Hardwire employee earns \$77,000 annually. Ms. Mears concluded that funding of \$10,000 is available within the FY16 Economic Development budget

to cover this grant.

Following some discussion and upon a motion by Commissioner Lockfaw, the Commissioners unanimously approved the request as presented.

Pursuant to the request of Recreation and Parks Director Paige Hurley and the recommendation of the Worcester County Recreation Advisory Board and upon a motion by Commissioner Purnell, the Commissioners unanimously approved the FY17 Worcester County Program Open Space (POS) Annual Program, which includes \$4,661,020 in proposed FY17 requests from the municipalities and the County. Mr. Hurley stated that POS grants are awarded by the Maryland Department of Natural Resources (DNR) for acquisition and development of land to be used for outdoor recreation, recreation development improvements throughout the County and for the support of major capital rehabilitation projects on County-owned land that provides recreation and open space opportunities for the public.

Pursuant to the request of Mr. Hurley and the recommendation of the Worcester County Recreation Advisory Board and upon a motion by Commissioner Purnell, the Commissioners unanimously agreed to allocate this year's POS funds for County projects. Mr. Hurley explained that the FY17 POS allocation to Worcester County for acquisition and development projects in the County is \$284,405, and of that amount 25% or \$71,101.25 can only be used for acquisition, while the remaining \$213,303.75 can be used either for development or acquisition projects.

Pursuant to the request of Emergency Services Director Fred Webster and upon a motion by Commissioner Bertino, the Commissioners unanimously agreed to waive the standard bid process and accept the proposal from Skyline Technology Solutions of Glen Burnie, Maryland for Consulting and Engineering Services for the Worcester County Fiber Optic Cable Project at a total cost of \$20,850. In his memo, Mr. Webster stated that Skyline Technology's involvement with the State of Maryland Department of Information Technology (DoIT) and the Maryland Broadband Cooperative, uniquely positions them to assist the County to develop an efficient and cost effective wide-area network through the use of cooperative agreements for access to fiber optic cable to support the needs of public safety, radio communications connectivity, Next Generation 9-1-1, general County Government, the Library, and the Board of Education.

Pursuant to the request of Human Resources Director Stacey Norton and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Human Resources to offer a payroll deduction to County and Board of Education (BOE) employees who would like to voluntarily participate in a college savings plan. Ms. Norton advised that this program would be provided at no cost to the County, and financial planners will work with the employees to help them select from one of three college savings plans: Maryland 529, Virginia 529, or Maryland Prepaid College Trust.

In response to a question by Commissioner Elder, Ms. Norton stated that she recommends the Virginia 529 plan, but that employees could choose the plan that best suits their needs. She further stated that use of any of these plans is not contingent upon being a resident of those states.

The Commissioners met with Development Review and Permitting (DRP) Director Ed

Tudor to discuss amending liquor license fees based on the passage of two bills during the 2016 Maryland General Assembly Session. Mr. Tudor stated that House Bill 697 creates a Class A Beer, Wine, and Liquor License, and also establishes an annual license fee of \$4,500. He stated that Senate Bill 130 creates a refillable container permit for draft beer and also establishes an annual fee of \$500. He stated that it is necessary to amend the County's Liquor License Fees to reflect these changes. He further recommended eliminating the \$100 fee per copy of the Liquor License list, since this information is now available in PDF form, and the \$18 fee for fingerprinting services and verification, since applicants now pay the local police agencies directly for these services. Upon a motion by Commissioner Elder, the Commissioners unanimously adopted Resolution No. 16-9 amending the Liquor License Fees as recommended by staff.

Pursuant to the recommendation of Mr. Tudor and upon a motion by Commissioner Bertino, the Commissioners unanimously adopted the Findings of Fact and Zoning Reclassification Resolution No. 16-04, regarding Rezoning Case No. 397, filed by Attorney Hugh Cropper, IV on behalf of GCR Development, LLC, which was heard by the Commissioners on May 3, 2016 and which formally rezones approximately 3.45 acres of land located on the westerly side of Golf Course Road to the north of Sunset Avenue, and more specifically identified on Tax Map 27 as Parcel 702 - Lot 2, Block G in the Tenth Tax District of Worcester County, Maryland from R-3 Multi-Family Residential District to C-2 General Commercial District.

The Commissioners met with Mr. Tudor to discuss Clearinghouse Review Project No. 2016DNR102, which involves the proposed transfer of Tern Island in the Sinpuxent Bay from the Maryland Department of the Environment (MDE) to the Maryland Department of Natural Resources (DNR) and the inclusion of the island in the Sinpuxent Bay Wildlife Management Area. Mr. Tudor explained that the island was created specifically to establish a colonial nesting waterbird habitat in 2015 when the U.S. Army Corps of Engineers (COE) dredged the navigation channels in the Isle of Wight Bay. He advised that inclusion of the island in the Sinpuxent Bay Wildlife Management Area will result in it being closed to the public during the bird nesting season, and make it available for public hunting and fishing only in accordance with Wildlife Management Area regulations. He stated that failure to use the site as a nesting island could violate the National Environmental Policy Act (NEPA) and threaten the COE's ability to continue channel dredging operations in the Ocean City Inlet and the Atlantic Coastal Bays. He concluded that it would be in the County's best interest to notify the State that this protection is consistent with the County's Comprehensive Plan, programs and objectives, all of which specifically call for the protection of the West Ocean City commercial harbor and inlet, while the Natural Resources chapter of the County Comprehensive Plan also calls for the protection of habitat for threatened or endangered species.

In response to a question by Commissioner Bunting, Mr. Tudor advised that, once the project is turned over to DNR to manage, dredging would likely occur during periods when the island is not being used for bird nesting. In response to a question by Commissioner Elder, Mr. Tudor stated that the Board of Public Works wants to know where the County stands with regard to this project and may interpret a lack of response as opposition. He advised that the island is

popular with boaters, making this issue a bit of a hot potato, but he pointed out that policing the closure policy would be the sole responsibility of DNR.

Commissioner Church stated that he had serious reservations about closing the island to the public given its popularity with boaters. In response to a question by Commissioner Mitrecic, Mr. Tudor stated that, while this project does not fall within the Town of Ocean City's purview, he had advised officials there about the project in case they wanted to weigh in on it.

In response to a question by Commissioner Bertino, Mr. Tudor stated that failing to support this project could jeopardize future funding for dredging projects in the Atlantic Coastal Bays. Upon a motion by Commissioner Mitrecic, the Commissioners voted 6-1, with Commissioner Church voting in opposition, to support the transfer of Tern Island from MDE to DNR for protection.

Pursuant to the request of Finance Officer Phil Thompson and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved the recommended Fiscal Year 2017 (FY17) Tax Ditch Rates and recommended Managers for all 19 Tax Ditches in the County. Mr. Thompson noted that the tax ditch rates were identical to the prior year, except for the Pine Ridge Branch Tax Ditch where the minimum rate will increase from \$2.00 to \$2.50 for tilled land, from \$1.00 to \$1.50 for wooded land, and the minimum payment will increase from \$10.00 to \$25.00, as requested by the Tax Ditch Managers.

Pursuant to the request of Mr. Thompson and upon a motion by Commissioner Lockfaw, the Commissioners unanimously approved and signed the Certification of 2016 Assessment List for County Tax Ditches - Public Drainage Associations.

The Commissioners met with Mr. Tustin to review the United States Department of Agriculture (USDA) loan No. 3 documents, for loan funds in the amount of \$250,000, for the Mystic Harbour Wastewater Treatment Plant (WWTP) project. Mr. Tustin stated that the project is now 100% complete, and \$12,835,000 in total project costs have been incurred. Upon a motion by Commissioner Church, the Commissioners unanimously adopted Bond Resolution No. 16-10 providing for the issuance of \$250,000 in public facility bonds (Mystic Harbour WWTP Project) Series 2016 and Loan Resolution No. 16-11 authorizing and providing for the incurrence of indebtedness for the purpose of providing a portion of the cost of acquiring, constructing, enlarging, improving and/or extending the Mystic Harbour sewer facility, as well as authorizing Commission President Bunting to sign all associated loan and bond documents on behalf of the County Commissioners.

The Commissioners met with Ms. Ramsay to discuss interim financing for the Mystic Harbour Effluent Disposal Project, which is expected to cost approximately \$3.2 million, using \$2.45 million in loan funds and \$750,000 in grant funds. Ms. Ramsay advised that the USDA has confirmed that their offer for financing is still in place, but the Mystic Harbour Sanitary Service Area (SSA) is required to incur \$2.45 million in project costs before the USDA will issue the loan funds. Therefore, she requested authorization to provide short-term interim financing of \$2.45 million from the General Fund to cover project costs until such time as the USDA releases the funds. Upon a motion by Commissioner Purnell, the Commissioners unanimously authorized

Commission President Bunting to sign the Promissory Note for Inter-Governmental Loans totaling \$2.45 million, together with a variable interest rate at the initial rate of 0.41% per annum commencing June 30, 2016 until such time as the loan is paid in full.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Elder, the Commissioners unanimously awarded a contract to Sherwood-Logan & Associates, Inc. of Annapolis, Maryland for the provision of one Flygt NT3202 Pump to replace the failed pump at West Ocean City Pump Station Number 1 at a total cost of \$31,486, plus freight at an estimated cost of \$800.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Elder, the Commissioners unanimously authorized Mr. Tustin to apply for a Maryland Department of Natural Resources (DNR) Boating Services Waterway Improvement Fund Grant of \$4,500 to cover the cost of portable toilet services at the County boat ramps.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Elder, the Commissioners unanimously approved bid specifications to replace the Five Mile Branch Road Bridge, with State Aid Bridge Funding to cover \$219,209.60 or 80% and County funding to cover \$54,802.40 or 20% of the total estimated project cost of \$274,012.

The Commissioners recessed until 11:10 a.m.

The Commissioners met with Finance Officer Phil Thompson and Julie Herlands, AICP Principal with TischlerBise of Bethesda, Maryland to review the draft Tax Differential Study for Worcester County. Mr. Thompson advised that the Tax Differential Study completed by Tischler Bise was undertaken in response to the Town of Ocean City's request for a tax differential in late 2015. He stated that a Tax Differential Study, in its most basic form, involves the identification of services that are duplicated between jurisdictions (i.e. Worcester County and the Town of Ocean City) and then determines the extent to which these services are funded through property tax revenue. Mr. Thompson explained that Tischler Bise utilized the County's most recently completed fiscal year (FY15) Comprehensive Annual Financial Report (CAFR) for the study and advised that the total tax rate required for the County was determined to be \$.776 to fully fund operations and provide the current level of services. He then advised that the adjustment required to fully implement a tax rate differential in accordance with this study would reduce the County tax rate to Ocean City taxpayers to \$.74 (\$.036 below the total) and would increase the rate to all other County taxpayers to \$.827 (\$.051 above the total). He cautioned that such a change to taxpayers would represent a significant departure from the way the County has historically set uniform, County-wide property tax rates. He pointed out that the property tax rate differential discussed in this study did not remove the current grants provided to the Town of Ocean City by the County as part of the Annual Operating Budget; however, in a true tax rate differential situation these grants would likely go away. He concluded that in recent years Ocean City has expressed a willingness to move forward with the current grant approach long utilized by the County, although they would like to have a more formalized process with some form of Memorandum of Understanding (MOU) in place committing to annual increases in the County

grants to Ocean City.

Ms. Herlands reviewed the study and noted that, as part of the process to derive a Tax Differential, TischlerBise collected data from County departments and met with Town of Ocean City officials. She stated that County expenditures are covered in the analysis and outline essentially “Who pays for what” and “Who’s consuming what services” within the following categories: General Government; Public Safety; Public Works; Health and Hospitals; Social Services; Education; Libraries, Recreation, Parks and Culture; Conservation of Natural Resources; Economic Development; Intergovernmental; and Other Financing Sources and Users. Ms. Herlands advised that the draft Tax Differential Study findings include a report that addresses how the tax differential findings would differ due to reinstatement of State Highway User Revenues. She then reviewed the general approach and structure of the analysis, noting program or departmental revenues are netted out of departmental expenditures. This results in "net expenditures" for each department and/or division. Net expenditures are then allocated to the user of the service: Countywide, Outside Ocean City, or within Ocean City based on data analysis. Ms. Herlands stated that the result-after netting out program/departmental revenue-requires a level of revenue that is higher than property tax generation due to other general revenues (e.g., income, transfer, and recordation taxes). These non-property tax revenues are allocated based on a line item analysis. She reviewed the findings, stating that, based on the need for \$112.7 million in property tax revenue and current (FY2015) assessed values, the total countywide equalized tax rate would need to be \$0.776 per \$100 in valuation; and given the analysis of County services provided in the Town of Ocean City and other areas of the County, the property tax rate differential results in \$0.087 per \$100 in valuation or approximately \$7.8 million (\$7,782,112 or 6.9%) in County property tax revenue for services not provided/duplicated in Ocean City. She further stated that in FY16 both the property tax rate and income tax rate were increased, and because proportionally more income tax revenue comes from outside Ocean City, the results using FY15 actual revenues and expenditures may not be reflective of the contributions from outside Ocean City starting in FY16 and after, and therefore may be worthy of further analysis. Ms. Herlands concluded that Tax Differentials are not common anywhere in the United States, with the exception of California.

In response to a question by Commissioner Elder, Ms. Herlands stated that the FY16 Income Tax rate increase would lessen the tax differential, as a higher percentage of income tax is collected outside of Ocean City. In response to concerns raised by Commissioner Bunting, Mr. Thompson confirmed that if the County provided the town with a Tax Differential the annual town grant would go away. In response to a question by Commissioner Mitrecic regarding fire and ambulance service, Assistant Finance Officer Jennifer Swanton stated that West Ocean City calls for service were included in the County, not Ocean City. Commissioner Mitrecic advised that the next step in this process should be for County and town officials to meet and discuss the findings. Following some discussion, Mr. Thompson thanked Ms. Herlands, noting that her guidance through the Tax Differential process has been invaluable in helping the County in this endeavor.

The Commissioners answered questions from the press, after which they adjourned to meet again in a budget work session later that afternoon and their next regular meeting on June 7, 2016.