

Minutes of the County Commissioners of Worcester County, Maryland

April 4, 2017

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

Following a motion by Commissioner Bertino, seconded by Commissioner Purnell, with Commissioner Mitrecic absent, the Commissioners unanimously voted to meet in closed session at 9:00 a.m. in the Commissioners' Conference Room to discuss legal and personnel matters permitted under the provisions of Section 3-305(b)(1) and (7) of the General Provisions Article of the Annotated Code of Maryland and to perform administrative functions. Also present at the closed session were Harold L. Higgins, Chief Administrative Officer; Kelly Shannahan, Assistant Chief Administrative Officer; Ed Baker, Interim County Attorney; Kim Moses, Public Information Officer; and Stacey Norton, Human Resources Director. Topics discussed and actions taken included: transferring and promoting Wade Pusey from Roads Worker I within the Roads Division to Scale Operator within the Solid Waste Division of Public Works, and Sherry Merritt from Shore Spirits Retail Liquor Store Manager within the Department of Liquor Control (DLC) to Immigration Detainee Records Specialist within the County Jail; advertising to fill the positions of Landfill Operator I within the Solid Waste Division, Roads Worker I within the Roads Division, and Maintenance Worker II within the Maintenance Division of Public Works; hiring certified officers Jenna McGoogan and Adam Parks as Correctional Officers within the County Jail; receiving legal advice from counsel; and performing administrative functions.

Commissioner Mitrecic was absent from the meeting.

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 minutes of their March 21, 2017 open and closed session meetings and their March 28, 2017 Budget Work Session as presented.

The Commissioners presented a proclamation recognizing April as Fair Housing Month to Housing Program Administrator Jo Ellen Bynum and reminded residents that fair housing is a right promised to all Americans regardless of their race, color, religion, national origin, sex, familial status, or disability. Ms. Bynum advised that, since the 1987 inception of the housing rehabilitation program in Worcester County, her office has rehabilitated nearly 400 houses, and another four are currently under construction. She stated that citizens of Worcester County appreciate the support of the Commissioners on various housing matters.

The Commissioners presented a proclamation to Health Officer Debbie Goeller and several members of her staff recognizing the week of April 3-9, 2017 as Public Health Week in Worcester County. Ms. Goeller encouraged the public to participate in the Working for Worcester Public Health Conference on April 5 in Ocean City. Commissioner Bertino recognized that this would be their last Public Health Week celebration with Ms. Goeller, who will retire June 30, 2017, and the Commissioners commended her for the huge positive impact she has made on public health in the community.

The Commissioners received objections and other public comment 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, the list of personal property, including vehicles, furniture and equipment will be sold online at www.govdeals.com as County surplus property.

Pursuant to the request of Lieutenant Ed Schreier and the written request of Sheriff Reggie Mason and upon a motion by Commissioner Church, the Commissioners unanimously authorized Commission President Bunting to sign the Maryland Safe Streets grant application for funds of up to \$15,000 from the Governor's Office of Crime Control and Prevention to produce and broadcast a series of locally-produced public service announcements that focus on awareness, prevention, and treatment related to the abuse of opioids, including heroin.

Pursuant to the request of Emergency Services Director Fred Webster and upon a motion by Commissioner Bertino, the Commissioners unanimously approved a change order in the amount of \$65,805.73 to Carousel Industries for the Next Generation 9-1-1 phone system for nine months of software support in Worcester County Government and the Town of Ocean City. Mr. Webster explained that this project is being funded by the Maryland Emergency Number Systems Board.

The Commissioners met with Human Resources Director Stacey Norton to review the recommendation from PSA Financials, the County's benefits consultants, for the FY18 proposed life and disability insurance vendor. Ms. Norton advised that PSA Financials, the County's benefits consultants, had at her request negotiated prices for life and long-term disability, after the current provider, Sun Life, had quoted the County a renewal price that included an increase of \$35,083 or 27.9%. At the recommendation of Ms. Norton and upon a motion by Commissioner Elder, the Commissioners unanimously approved the three-year contract from Guardian, with an annual guaranteed premium rate of \$122,148, which reflects a \$3,427 or -3% decrease in the existing rate. Ms. Norton explained that the per employee rate is fixed but the total annual cost will vary based upon the annual census of employees covered.

Environmental Programs Director Bob Mitchell informed the Commissioners that the Maryland Department of the Environment (MDE) reviewed and approved Environmental Programs' continued delegation of erosion and sediment control enforcement authority from the State through June 30, 2019. Mr. Mitchell advised that Worcester County is one of only three Eastern Shore counties entrusted with this enforcement authority.

Pursuant to the request of Mr. Mitchell and upon a motion by Commissioner Bertino, the Commissioners unanimously approved an in-kind match of approximately \$600,000 for the Environmental Protection Agency (EPA) National Estuary Program (NEP) grant for the period of October 1, 2017 through September 30, 2018. Mr. Mitchell explained that the County will use non-federal Rural Legacy Program funds, expended during FY18 for this match, and noted that there will also be a match from the Bay Restoration Fund (BRF) grants for the same time period, with no cash outlay from the county.

The Commissioners met with Mr. Mitchell to review the findings of the Maryland Agricultural Land Preservation Foundation (MALPF) Board regarding the Commissioners' 2016 inquiry regarding family lot options on lands protected by agricultural preservation easements. Mr. Mitchell reviewed the MALPF Board's findings, stating that the family lot option, which allows potential subdivision for lots based on the acreage of the farm, is a State statute and cannot be modified or eliminated by the County. He further advised that the Worcester County MALPF Board reviewed this matter and concluded that no changes need to be implemented locally, as they feel the current ranking system is adequate and does address the Commissioners' concern by deducting points for any development rights that are not proposed to be extinguished by the applicant. He further noted that no family lots have been created on lands protected by a County MALPF easement to date, and very few applicants select this option.

In response to a question by Commissioner Elder, Planner V Katherine Munson advised that an applicant who waives all development rights would receive a higher ranking than an applicant who elects not to do so.

Mr. Mitchell met with the Commissioners to recommend providing FY18 MALPF Agricultural Preservation Easement Acquisition Program local matching funds at the minimum required level of \$133,913.78, along with an additional local match of \$200,000 in encumbered funds for land preservation activities, which would return another \$300,000 in State funds to the County under the 60/40 funding split. In response to a question by Commissioner Bertino, Ms. Munson advised that the County is not required to provide the additional funding and would not be required to provide the same level of matching funds in subsequent years if they choose to approve the additional local matching funds for FY18. Following some discussion and upon a motion by Commissioner Elder, the Commissioners voted unanimously to commit the minimum required local matching funds of \$133,913.78 for the MALPF FY18 easement acquisition program.

Commissioner Bertino thanked Mr. Mitchell and Ms. Munson for taking Commissioner Purnell and him on a tour of MALPF-protected farms recently to help them better understand the program.

The Commissioners met with Public Works Director John Tustin to review the proposed purchase six new vehicles for use within Environmental Programs to replace aged vehicles within that department as approved by the Commissioners on March 21, 2017. Mr. Tustin explained that these vehicles are available for purchase under the State bid contract and recommended utilizing that program for procurement. Following some discussion and upon a motion by Commissioner Elder, the Commissioners unanimously agreed to waive the standard

bid process and agreed to award bids for the purchase of the six requested vehicles as follows: four 2017 Dodge Ram pickup trucks with 8' beds and one 2017 Dodge Ram pickup truck with a 6'4" bed, each at a cost of \$21,675, for a grand total purchase of \$108,375 to Criswell Automotive of Gaithersburg, Maryland under the State bid contract; and one 2017 Chevrolet Traverse all-wheel drive, four-door LS at a total cost of \$26,258 to Sport Chevrolet Co., Inc. of Silver Spring, Maryland under the State bid contract.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Elder the Commissioners awarded the contracts for the purchase of petroleum products for five-year terms each commencing with the date of award and ending April 30, 2022 to the following two vendors : CATO, Inc. of Salisbury for tanker loads of dyed low sulfur diesel at a mark-up price of \$0.0498 per gallon to the Jail; and Scarborough Oil Co., Inc. of Snow Hill for tank wagon loads of ultra dyed low sulfur diesel at a mark-up price per gallon of \$0.1375 to County office buildings, generators, and off-road equipment, as well as tank wagon loads of dyed kerosene at a mark-up price of \$0.490 per gallon to the Solid Waste Division of Public Works.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Purnell, the Commissioners unanimously approved bid specifications for propane gas to be provided to 18 County facilities for two years commencing with the date of award and ending May 31, 2019, and to include informational pricing to extend the contract for up to three additional years through May 31, 2022. At the request of Commissioner Elder, Mr. Tustin agreed to add Cropper Oil to the bidders' list.

Pursuant to the recommendation of Mr. Tustin in response to a request from Maryland Department of Agriculture (MDA) Administrator III Daniel Schamberger and upon a motion by Commissioner Elder, the Commissioners unanimously authorized Commission President Bunting to sign the Local Government Acknowledgment/Approval of Aerial Spraying Operations for Mosquito Control to replace the previous outdated form and to allow MDA to begin spring aerial larvicide operations in both rural and populated areas of Worcester County.

The Commissioners met with Mr. Tustin to review a letter from Walid Saffouri, P.E., Engineering and Capital Projects Program Administrator within the Maryland Department of the Environment's (MDE) Office of Budget and Infrastructure Financing, advising that the Ocean Pines Wastewater Treatment Plant (WWTP) is exempt from paying into the Bay Restoration Fund (BRF) for calendar year 2017, with the exemption to expire February 1, 2018. Mr. Tustin advised that, as a result, residents in the Ocean Pines Sanitary Service Area (SSA) will be exempt from paying the \$7.50 monthly charge during this same time frame. He advised that the BRF is a dedicated fund financed by residents and businesses served by wastewater treatment plants (WWTPs) throughout the State of Maryland to upgrade publicly-owned WWTPs throughout Maryland, with enhanced nutrient removal (ENR) technology to reduce nutrient discharges to the state's waterways. Mr. Tustin pointed out that BRF exemptions are valid for one year and must be renewed annually, and the Ocean Pines WWTP has received a BRF waiver each year, for consistently exceeding the State-mandated BRF goals. He advised that the Ocean Pines WWTP is the only publicly-owned WWTP in the State that is exempt from paying the BRF.

The Commissioners met with Budget Officer Kathy Whited to review the required advertisement entitled "Notice of Public Hearing FY18 Requested Operating Budget," which will run in area newspapers the weeks of April 19 and April 26, 2016, advising the public that the budget hearing will take place on Tuesday, May 2, 2017 at 7:00 p.m. at Snow Hill High School (SHHS).

Commissioner Bertino stated that lumping budget stabilization funds of \$1,725,431 in with anticipated FY18 revenues diminishes transparency. Commissioner Elder agreed, noting that even though they are revenues generated in prior fiscal years, the inclusion of these funds in projected FY18 revenues is somewhat misleading. In response to a question by Commissioner Church, Chief Administrative Officer Harold Higgins stated that budget stabilization funds are included in the formula used to determine FY18 revenues, as these funds are revenues generated in prior years and were included in the requested budget to cover the cost of operating the homeowner convenience centers and recycling operations by the County's General Fund rather than the Solid Waste Enterprise Fund as previously agreed by the County Commissioners.

Following some discussion and upon a motion by Commissioner Bertino, the Commissioners voted unanimously to remove budget stabilization funds of \$1,725,431 from projected County revenues at this time and approved the revised public notice advertisement, which will reflect estimated FY18 revenues of \$197,368,330.

The Commissioners met with Ms. Whited to review the proposed FY18 Constant Yield Advertisement, and an alternate version which was revised to reflect the potential removal of budget stabilization funds for a new revenue estimate of \$197,368,330. The Commissioners agreed that the alternate version should be used. Ms. Whited explained that, in accordance with State law, the notice states that, for the tax year beginning July 1, 2016, the estimated real property assessable base will increase by 1.6%, from \$14,658,220,500 to \$14,889,919,428, and if the County maintains the current tax rate of \$0.835 per \$100 of assessment, real property tax revenues will increase by \$1,934,686 or 1.6%. The notice states that, to fully offset the effect of increasing assessments, the real property tax rate should be reduced to \$0.822 per \$100 of assessment, the Constant Yield Tax Rate (CYTR). The County is considering not reducing its real property tax rate enough to fully offset increasing assessments and instead proposes to adopt a real property tax rate of \$0.867 per \$100 of assessment. This tax rate is 5.5% higher than the CYTR and will generate an additional \$6,700,463 in real property tax revenues. Ms. Whited informed the Commissioners that the original advertisement had already been approved by the Maryland Department of Assessments and Taxation, and this revised advertisement must be submitted to them for approval prior to the County issuing the advertisement to run in area media outlets during the week of April 19, 2017.

Upon a motion by Commissioner Bertino, the Commissioners unanimously approved the FY18 Constant Yield advertisement as required by State law.

The Commissioners met with Assistant Chief Administrative Officer Kelly Shannahan to review the five proposals to purchase the Shore Spirits Retail Liquor Store located at 122 Newtowne Boulevard in Pocomoke, to include the purchase of the furniture, fixtures, and improvements. At the recommendation of the Department of Liquor Control Management Committee and upon a motion by Commissioner Elder, the Commissioners unanimously accepted the proposal from Kalpesh Patel of Berlin, Maryland at a purchase price of \$950,000,

plus a 15% inventory markup price of \$225,441, for a total bid price of \$1,175,441 for the 2,954-square-foot store, including furniture, fixtures, and improvements. Mr. Shannahan advised that settlement of the store is contingent upon Mr. Patel applying for and being awarded a Class “A” Beer, Wine, and Liquor License by the Board of License Commissioners.

Pursuant to the request of Mr. Shannahan and upon a motion by Commissioner Purnell, the Commissioners unanimously approved the Request for Proposals (RFP) to sublease the Shore Spirits Retail Liquor Store located on US Route 50 east of Berlin in northern Worcester County.

The Commissioners reviewed a draft copy of the Worcester County Commissioners 2017 Strategic Plan, as developed during the Maryland Association of Counties (MACo) Winter Conference on December 7, 2016, which highlights five priority initiatives to be addressed during the remainder of their current term in office as follows: extend sanitary sewer service to the Lewis Road area; encourage and facilitate local vendors to provide Countywide high-speed broadband internet service; help fire companies to save money; review fire company funding formulas; and facilitate street lighting in West Ocean City. Upon a motion by Commissioner Purnell, the Commissioners unanimously adopted the 2017 Strategic Plan as presented.

The Commissioners conducted a public hearing to consider an application submitted by Community Energy Solar, Inc. to approve a Step I Concept Plan for a utility-scale solar energy system on property located on the northerly side of Ocean Gateway (U.S. Rt. 50) just west of the MD Rt. 90 off-ramp and the southerly side of Old Ocean City Road (MD Rt. 346) across from the intersection with Circle Road and more specifically identified on Tax Map 19 as Parcel 6 (425.92 acres zoned A-1). Development Review and Permitting Director Ed Tudor advised that the proposed Gateway Solar Project includes a proposed utility scale solar energy system, consisting of approximately 52,000 panels anticipated to produce a 15.6-megawatt (DC) output. He further stated that the application received a favorable recommendation from the Planning Commission.

Commissioner Bunting opened the floor to receive public comment.

Mark Cropper of Ocean City, attorney for Gateway Solar, LLC, on this project stated that the Technical Review Committee and Planning Commission did a thorough job reviewing the project, and requested the Planning Commission’s Findings of Fact be entered into the record in support of the Step I approval of the Gateway Solar Project.

Tom Anderson, the lead sales developer for Community Energy Solar, a renewable energy development company that was originally established in 1999 to develop wind energy and began developing solar energy in 2008, stated that his firm is the leading developer of solar energy farms in Maryland, and has over 700 megawatts of solar projects in 10 states west of the Rockies to their credit, and he urged the Commissioners to support this project. In response to a question by Commissioner Elder, Mr. Anderson advised that this project would take 130 acres of farmland out of production, with land that will be required to be reforested. He further advised that the property will be screened by a vegetative buffer and also by fencing along U.S. Rt. 50 and MD Rt. 346.

Steve Engle, a registered landscape architect for Vista Design, reviewed plans for the project, noting that the solar project would be comprised of approximately 130 acres of developed area to be developed in two phases, with 26 acres of land to be reserved in a Forest

Conservation Easement, and with proposed setbacks of 50 feet from perimeter property lines. In response to a question by Commissioner Bunting, Mr. Engle advised that the solar project would tie into transmission lines on the south side of U.S. Rt. 50.

In response to a question by Commissioner Lockfaw, Mr. Anderson stated that project construction is anticipated to begin in summer 2018 and be complete within five months. He stated that afterward only minimal maintenance activities will be required on the site, beginning with daily or weekly activities on the site dropping off to monthly site visits within the first year. He advised that projects such as these rely on local contractors for construction and scheduled maintenance to keep project costs down, and he anticipates approximately 80% of the contractors for this project will be located on the Eastern Shore. With regard to grass cutting on the site, he advised that the property will be seeded with low-maintenance, native grasses that grow to a maximum height of 12 inches, making grass cutting unnecessary.

In response to a question by Commissioner Bunting, Mr. Anderson advised that Community Energy Solar has a 30-year lease for the land and his company would be required by the Maryland Public Service Commission to return the site to its natural state if they ever discontinue solar production on that site.

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

Upon a motion by Commissioner Bertino, the Commissioners voted unanimously to conceptually approve the proposed project and accept the Planning Commission's Findings of Fact and their additional comments regarding minor modifications to be referenced on the plan with respect to total proposed electric generation and landscaping.

The Commissioners met with Mr. Tudor to discuss a draft letter to the State Highway Administration (SHA) regarding design of the intersection of U.S. Rt. 50 and MD Rt. 589. Commissioner Church recused himself from the discussions and left the meeting due to a potential conflict of interest. Mr. Tudor advised that DRP staff met with State Highway Administration (SHA) officials, including James W. Meredith, the new SHA District 1 Engineer, and other interested parties on Friday, March 17, 2017, to discuss issues related to access for a proposed LIDL Grocery Store to be located on the property known as the Cropper Farm on the southerly side of U.S. Rt. 50 at the MD Rt. 589 intersection. He advised that SHA had some concerns regarding the draft access plans that showed the extension of Samuel Bowen Boulevard from its current terminus at the westerly edge of the McDonald's site up to and connecting with U.S. Rt. 50 at its intersection with MD Rt. 589 due to the additional leg on this intersection, which would result in additional traffic light phases at the intersection. He noted that SHA representatives viewed this as a conflict with the prior position taken by the County Commissioners to not increase or place additional traffic signal limitations on U.S. Rt. 50 and with SHA's long term concept plan to have a grade-separated interchange at the U.S. Rt. 50 and MD Rt. 589 intersection. Mr. Tudor told the Commissioners that he advised SHA staff that the confusion with respect to the County's position on service road access points and the interchange are due in large part to the loss of virtually all SHA staff that had worked closely with the County on service road issues over the years, and in light of that information Mr. Meredith agreed to reevaluate the situation, provided the Commissioners agreed to support the at-grade connection to the southerly side of U.S. Rt. 50 at MD Rt. 589 and the addition of the fourth leg on the intersection's signal.

Upon a motion by Commissioner Bertino, the Commissioners unanimously authorized Commission President Bunting to sign a letter to Mr. Meredith expressing the Commissioners' desire to see the service road completed as designed, inclusive of adding a fourth leg to the existing intersection of U.S. Rt. 50 and MD Rt. 589, and their belief that it will not significantly impact the existing traffic movements in the area and is necessary to facilitate the goals and objectives of the US Route 50 Transportation Corridor Plan.

Commissioner Church returned to the meeting.

The Commissioners reviewed and discussed various board appointments.

Upon a nomination by Commissioner Lockfaw, the Commissioners unanimously agreed to appoint William Sparrow to the Economic Development Advisory Board for a four-year term expiring December 31, 2020 to replace Joshua Nordstrom whose term expired.

Upon a nomination by Commissioner Bertino, the Commissioners unanimously agreed to appoint Jeff Knepper to the Ethics Board for a four-year term expiring December 31, 2020 to replace Lee W. Baker whose term expired.

The Commissioners met with Superintendent of Schools Lou Taylor to review the latest schematic design plans to replace the Showell Elementary School (SES). Also in attendance were Board of Education (BOE) President Bill Gordy and members Doug Dryden and Elena McComas, Chief Operating Officer Steve Price, Chief Financial Officer Vince Tolbert, Facilities Planner Joe Price, and Showell Elementary School Principal Diane Schwartz.

Mr. Taylor thanked the Commissioners for approving design funding for SES in November 2016. He stated that thanks to their ongoing partnership with the Commissioners, the BOE recently completed the third phase of design, schematic design, refined concept, site and floor plans, while consistently focusing on cost saving measures.

Mr. Price reviewed a PowerPoint outlining the schematic designs for the new SES that included the background, design process, conceptual design review, design opportunities, schematic design, working estimate, and the schedule moving forward, all of which were designed with student safety (crime prevention through environmental design) and cost savings in mind. He reviewed revised schematic plan advantages, which included a simpler design that allowed them to reduce the exterior perimeter wall by 214 linear feet; keep the portable classrooms in place during construction, to save \$240,000 in relocation costs; eliminate 39 exterior classroom doors; improve safety with a fully-protected courtyard surrounded by 18 rooms; the use of cost-effective and durable materials; simplified structural design and building massing; simplifying, and consolidating mechanical, electrical, plumbing, technology, and fire protection designs, with improved solar orientation and fewer exterior security cameras and lighting. He stated that this simplified design saves money and improves safety and security as the length of corridor space deputies would be required to traverse in the event of an emergency has been reduced. He then advised that they separated the cafetorium from the previously proposed shared gymnasium and cafeteria space and created two separate spaces to comply with the Code of Maryland Regulations (COMAR) that all new construction/major renovations in Maryland public schools shall provide a separate gymnasium. He advised that the revised plans replaced the previously proposed geothermal system with a hybrid heating and air conditioning system that will eliminate the need to drill 300 wells on the site and save approximately \$1

million, for an overall approximate savings of \$1.2 million to date for a revised SES construction estimate of \$33,502,569, with the project to go out to bid in August 2018, with construction to begin in March 2019 and to be completed by July 2021.

Commissioner Bertino commended school officials and the Commissioners, noting that it is amazing what can be accomplished when they work together. Commissioner Bunting thanked the BOE for meeting with them and sharing this good news.

The Commissioners answered questions from the press, after which they adjourned to meet again on April 25, 2017.