

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

December 19, 2017

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

Following a motion by Commissioner Bertino, seconded by Commissioner Elder, with Commissioner Lockfaw initially 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) 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: hiring Beth Forsyth, Walter Donoway, Kelly Adkins, John Bunting, and Damel Scott as Correctional Officer Trainees at the Jail; posting to fill vacancies for an Office Assistant IV in the Maintenance Division of Public Works and a part-time Document Imager II for the Document Imaging Division of the Treasurer's Office, and reclassifying the position of Assistant Support Services Manager to Assistant Manager of the Berlin Branch Library for the Worcester County Library; receiving legal advice from counsel; and performing administrative functions.

After the closed session, the Commissioners reconvened in open session. Commissioner Purnell 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 December 5, 2017 meeting as presented.

Pursuant to the request of Housing Program Administrator Jo Ellen Bynum and upon a motion by Commissioner Bertino, the Commissioners unanimously approved bid specifications for the overall rehabilitation of a single-family home in the Stockton area, which is to be funded by a combination of Community Development Block Grant (CDBG), Accessible Homes for Seniors Program (AHSP), and Shore Up! grant funds. Also in attendance was Dave Walter, owner of Lifestyle Home Inspections of Berlin, Maryland, who was recently awarded the bid to provide Housing Rehabilitation Program inspection services for the County.

Pursuant to the request of Ms. Bynum and upon a motion by Commissioner Lockfaw, the Commissioners unanimously approved bid specifications for the installation of a new septic

drainfield at a property located in the Berlin area, which is to be funded with the County's CDBG funds.

Pursuant to the written request of Superintendent of Schools Louis H. Taylor and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized the Board of Education (BOE) to utilize \$70,000 of the projected balance of FY18 School Construction funding of \$157,000 for the energy management project at Buckingham Elementary School (BES) to help offset the cost of roof repairs at the Worcester Technical High School (WTHS).

Pursuant to the request of Recreation and Parks Superintendent Lisa Gebhardt and upon a motion by Commissioner Church, the Commissioners unanimously approved out-of-state travel for Kelly Rados, Special Events & Marketing Coordinator for Recreation and Parks, to attend the National Association of Sports Commission (NASC) Symposium from April 23-26, 2018 in Minneapolis, Minnesota at a cost of \$1,530 for registration, flights, lodging and meals. Ms. Gebhardt advised that this conference is a valuable tool in gaining exposure for Worcester County and booking tournaments, and as part of Team Maryland, the County receives two free conference registrations. The Commissioners also authorized an additional \$1,530 in the event that a new Recreation and Parks Director is appointed and that individual is available to attend the symposium.

The Commissioners reviewed a letter from Kevin G. Wagner, Natural Resources Planner for the Maryland Department of the Environment (MDE), inviting them to attend a Community Assistance Visit (CAV) he scheduled with Development Review and Permitting Director Ed Tudor and County Engineer Bill Bradshaw on December 20, 2017 to discuss the County's participation in the National Flood Insurance Program (NFIP) and to address any questions the County may have about the program and its responsibilities and to review records related to the County's floodplain permitting, development, and variance activity, and tour the Special Flood Hazard Area (SFHA) in the County. The Federal Emergency Management Agency (FEMA), or MDE, the NFIP State Coordinating Office, conducts these visits for the purpose of maintaining periodic contact with communities participating in the NFIP to assess their needs for technical assistance and coordination, and to assess the effectiveness of local floodplain management ordinances and enforcement practices.

The Commissioners met with Assistant Chief Administrative Officer Kelly Shannahan to review the Worcester County Sewer Committee report regarding a request from Attorney Hugh Cropper, on behalf of Sun Frontier, LLC, for allocation of an additional 71 equivalent dwelling units (EDUs) of sewer capacity from the Mystic Harbour Sanitary Service Area (SSA) for a proposed expansion of the Frontier Town Campground. Mr. Shannahan advised that Frontier Town Campground purchased 166 EDUs on March 30, 2017 to remove their septic system and serve the existing campground with public sewer. This allocation, though it reflects an increase of six additional EDUs as requested by Sun Frontier, LLC to reflect the current 584 campsites, is in keeping with the original 160 EDUs (130 EDUs for campsites and 30 EDUs for commercial) allocated to the campground by the County as part of planning for the expansion of the Mystic Harbour Wastewater Treatment Plant (WWTP) to reduce septic flow in the Atlantic Coastal Bays Critical Area. This plan is documented in the EDU Allocation Table, which the Maryland

Department of the Environment (MDE) required to be incorporated into the County's Water and Sewer Plan for the Mystic Harbour Sanitary Service Area (SSA) when the plan was amended to add Frontier Town. This expansion was enabled by the expansion of the Mystic Harbour Wastewater Treatment Plant (WWTP) approved in 2008, and project funding by the United States Department of Agriculture (USDA) in 2009 was predicated on the need for infill and intensification of properties along the U.S. Rt. 50 commercial corridor and vicinity; service to vacant or multi-lot properties, single-family dwellings converting from septic systems to public sewer, and commercial properties. The Planning Commission recommended a rating system to rank priority allocations of the additional EDUs with highest priority to (1) infill lots, (2) expansion of existing facilities, then (3) replacement of septic tanks, and last (4) new development. Once EDUs are transferred from one category to another and sold, they will no longer be available for the originally intended purpose. Therefore, any transfer of allocations should be in keeping with the original intent of the Planning Commission and the County Commissioners in 2008, when the Mystic Harbour WWTP expansion was approved and upon which the USDA committed project funding. Mr. Shannahan advised that, while drafting the SSA sewer EDU Allocation Process, staff understood that the 30 EDUs previously designated for the Commercial Portion of the Frontier Town Campground were transferred and added to the original allocation of 130 EDUs for the Frontier Town Campground category, plus a transfer of 6 EDUs from the "Infill and Intensification of Properties in Area 1" category to serve the existing 584-site campground. Mr. Shannahan advised that there are currently 55 EDUs available in Area 2 (south of the Ocean City Airport) in which no additional EDUs are allocated for Frontier Town, and 298 EDUs available in Area 1 (north of the airport).

Mr. Shannahan reviewed the two options available to address Mr. Cropper's request. Option one is to deny the request for allocation, since there is currently no remaining allocation available for Frontier Town in Area 2 in accordance with the Water and Sewer Plan. Option 2 is to approve all or part of the requested allocation by transferring EDUs from among the following use categories with remaining allocations: Area 2 (south) - 20 EDUs for commercial infill, 4 EDUs for vacant or multi-lot properties, 6 EDUs for Assateague Greens Executive Golf Course, 5 EDUs for the church property, and 20 EDUs for single-family dwellings to convert from septic to public sewer; and Area 1 (north) - 148 EDUs for infill and intensification, 80 EDUs for vacant or multi-lot properties, 17 EDUs for single-family dwellings, and 53 EDUs for commercial development. In response to a question by Commissioner Bertino, Mr. Shannahan advised that when all the available Mystic Harbour SSA sewer EDUs have been allocated, the only option to accommodate future growth would be to modify the existing Mystic Harbour WWTP to increase capacity and identify a disposal site to accommodate the additional flow, which proved most challenging for the current expansion. Public Works Deputy Director John Ross stated that such a project would take at least three to five years, to include the permit process, design phase, bidding and project construction. In response to a question by Commissioner Elder, Environmental Programs Director Bob Mitchell advised that, if there are no EDUs to serve properties with failing septic systems, property owners with failing septic systems would be required to utilize a holding tank, a costly alternative, until such time that additional EDUs became available. In response to an additional question by Commissioner Bertino, Mr. Shannahan advised that in Worcester County sewer EDUs dictate how and where the County will grow. He stated that the EDUs will sell, but how the Commissioners choose to allocate the available EDUs will dictate how the County will grow now and in the future.

Commissioner Purnell recognized Attorney Hugh Cropper.

Mr. Cropper stated that there are currently 353 EDUs available within the Mystic Harbour SSA, which the County must sell at a cost of \$7,700 per EDU to repay the USDA loan of approximately \$8 million. He stated that, though the County is in the business of selling EDUs, it is his understanding that not many EDUs have been sold to date, and his client would like to purchase an additional 71 EDUs to expand the campground. He further stated that his client has spent nearly \$1 million on plans to expand the campground, and these plans include funding a sewer line and pump station that will serve the campground, and other properties within the vicinity of the sewer pipe, which represents smart growth. In closing, he urged the Commissioners to approve this request. Commissioner Elder stated that the County is not in the business of selling EDUs. Rather their responsibility is to care for the citizens, remove properties from drainfields, and clean up the bay.

Commissioner Mitrecic supported the request and stated that 71 EDUs represents 20% of the EDUs available within the Mystic Harbour SSA, which would leave 282 EDUs available for other purposes. Commissioner Mitrecic stated concern that those residing in the Mystic Harbour SSA would be stuck repaying the USDA loan if the County is not able to sell enough EDUs, and he too supported Mr. Cropper's request. In response to a follow-up question by Commissioner Bertino, Enterprise Fund Controller Jessica Wilson advised that the County has sold enough EDUs to meet the USDA loan payments through 2019, after which the County must either sell 20 EDUs per year to continue to meet this obligation or provide the Mystic Harbour SSA with a short-term loan from the General Fund to cover the debt if the Commissioners wish to avoid passing this cost on to the current SSA customers.

Commissioner Bunting stated that he could not support the request for 71 additional EDUs, as doing so would require amending the allocation table in the water and sewer plan that would eliminate all EDUs in the South and diminish available EDUs in the North as well. He stated that the available EDUs, as outlined in the EDU Allocation Table within the County's Water and Sewer Plan, were required by MDE as a condition to their approval of the Mystic Harbour SSA expansion. He pointed out that the Allocation Table only allocated 160 EDUs to Frontier Town for the existing campground, and none had been allocated for future expansion of the campground. Likewise, he pointed out that the other EDUs in the south are for specific purposes, including the church, golf course, and single-family homes currently served by septic systems. He urged the Commissioners to remain consistent with the plan when determining how to allocate EDUs, and he cautioned that any proposed revisions may require MDE approval through an amendment to the water and sewer plan.

Mr. Cropper urged the Commissioners to approve his client's request, noting that Sun TRS Frontier, LLC is funding the cost of an expensive pump station and sewer force main to the Mystic Harbour WWTP, which will make it possible for property owners to abandon their septic systems and connect to sewer. He stated that his clients are great citizens, but that they should not be expected to foot the cost of extending sewer down MD Rt. 611 to serve adjacent properties if their request for additional EDUs is denied.

Commissioner Lockfaw stated that the Commissioners should seriously consider the request before them, noting that they built a larger WWTP with additional capacity with the intention of selling the EDUs. He stated that the request before them represents a need for those EDUs. He stated that despite the plan the Commissioners adopted previously, the County is constantly changing, and they should be willing to amend the plan to meet those changes.

A motion by Commissioner Mitrecic to approve the request to allocate 71 Area 1 EDUs, 10 from Commercial and 61 from Infill and Intensification, for the Frontier Town Campground expansion failed 3-4, with Commissioners Church, Lockfaw, and Mitrecic voting in favor of the motion and Commissioners Bertino, Bunting, Elder, and Purnell voting in opposition.

A subsequent motion by Commissioner Bunting passed 4-3, with Commissioners Bertino, Bunting, Elder, and Purnell voting in favor of the motion and Commissioners Church, Lockfaw, and Mitrecic voting in opposition, to deny the application for the allocation of 71 EDUs of sewer service based upon his prior comments, since there is no remaining allocation available for the Frontier Town Campground in Area 2 south of the airport in accordance with the allocation table included in the Water and Sewer Master Plan and to return the EDU deposit of \$71,000.

The Commissioners met with Finance Officer Phil Thompson and Chris Hall of TGM Group, LLC, Certified Public Accountants to review the County's Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ending June 30, 2017. Also in attendance were Budget Officer Kathy Whited, Assistant Finance Officer Jennifer Swanton, Enterprise Fund Controller Jessica Wilson, and Budget Accountant Kim Reynolds. Mr. Thompson stated that this audit, on which staff spent thousands of hours and TGM staff spent more than two months onsite, represents the County's fiscal report card, the holy grail of all things finance for the County. He stated that page 87 includes the Total Real and Personal Property Revenues, with a budget total of \$129.79 million, while the actual revenue totaled \$130.27 million (this represents nearly two-thirds of the County's total annual revenue stream), and this represents a total revenue variance of just \$479,000 or 3/10 of one percent or 99.7% accuracy regarding staff's budget estimated for this one line. Mr. Hall stated that the goal of the independent audit is to provide reasonable assurance that the County's financial statements are free of material misstatements. He directed the Commissioners to the Independent Auditor's report, the Analysis, Income Statement, Governmental and Enterprise funds, and Fiduciary Funds, which include roughly \$46 million for Other Post Employment Benefits (OPEB), Financial Statements, and Statistical Information, which includes a 10-year history of information, including trends, net assets, and permits. Mr. Hall stated that, based upon their audit, TGM has issued Worcester County an unmodified opinion (previously referred to as a "clean opinion"), which represents the highest assurance TGM can give.

In response to a question by Commissioner Bertino, Mr. Hall stated that TGM prepares CAFRs for roughly 75 county and municipal governments, and the Commissioners should be extremely proud of the County's strong financial management team for their hard work and dedication, which is also reflected in the County's exceptional bond rating, which results in low interest bonds for County capital projects. The Commissioners thanked Mr. Hall for his presentation. Mr. Thompson announced that the CAFR would be available on the County website at [www.co.worcester.md.us](http://www.co.worcester.md.us) for interested citizens to view.

The Commissioners met with Mr. Shannahan to discuss a proposal to send up to 14 staff members and two Commissioners to the National Hurricane Conference in Orlando, Florida from March 26-29, 2018. Mr. Shannahan stated that the regular early registration fee is \$350 per person; however, he hopes to negotiate a group discount of \$50 per person, provided at least 10 County staff are registered. Therefore, the estimated cost of registration, travel, lodging, and

meals is \$2,050 per person for 2018. Mr. Shannahan stated that funding is available in the Travel and Training Account to allow the staff and Commissioners to attend the conference.

Following some discussion and upon a motion by Commissioner Elder, the Commissioners unanimously approved out-of-state travel with funding in the Travel and Training Account to send up to 14 staff members and two County Commissioners to the 2018 Hurricane Conference, with a final list of staff members and Commissioners to be approved by the Commissioners at a later date.

Development Review and Permitting Director Ed Tudor updated the Commissioners on the requirements for Transportation Priority Letters under new State Chapter 30 requirements. Mr. Tudor stated that earlier this year the General Assembly passed Senate Bill 307, Chapter 30 of the Acts of 2017 that requires the Maryland Department of Transportation (MDOT) to develop a project-based scoring system for major transportation projects (those estimated to exceed \$5 million), excluding only projects that are solely for system preservation. He stated that this legislation followed 2016 legislative changes that the Administration referred to as the Road Kill Bill. Mr. Tudor advised that the Chapter 30 document, which was developed with input from MDOT and representatives from the Maryland Association of Counties (MACo) and the Maryland Municipal League, is in draft form and may change prior to its submission to the Legislative Committee for approval on January 2, 2018. However, he has a number of concerns. First, the system for submitting priority letters has changed to a two-tier system, whereby system preservation, safety, and highway capacity or enhancement projects under \$5 million are due by April 1, 2018. All other major projects will have to comply with the submission requirements of Chapter 30, which will entail the County submitting a feasibility study that defines the project improvements and limits, along with a detailed cost estimate, six completed checklists, a statement of funds available from all sources, and local priority point allocations, all of which must be submitted by March 31, 2018 for inclusion in next year's Consolidated Transportation Plan (CTP). He stated that another large component of the process requires coordination with the towns, meaning scoring well will require unanimity in the priorities of the County and towns. Mr. Tudor further stated that the timeline as outlined for any major projects during this application period will be virtually impossible to meet in 2018, considering that there will not be a release of the final Technical Guide, the checklists, and other supporting documentation until early January 2018 at the earliest. Additionally, the proposing entities must either coordinate with MDOT State Highway Administration (SHA) to fund preliminary planning for the project in the Development and Evaluation Program of the CTP or conduct their own feasibility studies, which could not be completed in eight short weeks. He concluded that the Commissioners can still include Major Transportation Projects in the County's priority letter, but they will not be evaluated and considered for funding without the Chapter 30 submission requirements. He stated that this process has become unnecessarily complicated, but he agreed to continue following the progress of the Technical Guide, and he urged the Commissioners to begin thinking about what major and minor projects they may wish to pursue once this process is finalized.

In response to a question by Commissioner Bunting, Mr. Tudor estimated that it would cost a minimum of \$200,000 to undertake the necessary studies required to submit any major project, such as the MD Rt. 90 dualization project. He further advised that Town of Ocean City officials were the only municipal representatives who responded to his request for input on the transportation priority letters last year. Commissioner Mitrecic stated that Ocean City Mayor

Rick Meehan had made a strong case for making the dualization of MD Rt. 90 the next priority project; yet, rather than advocating for the County to undertake a feasibility study for this project, he urged the Commissioners to work with State officials to fund the feasibility study that is needed to move forward with plans to dualize this State highway.

The Commissioners reviewed and discussed various board appointments.

Upon a nomination by Commissioner Mitrecic, the Commissioners unanimously agreed to reappoint Lauren Taylor to the Tourism Advisory Committee for a four-year term expiring December 31, 2021.

Upon nominations by Commissioner Mitrecic, the Commissioners unanimously approved the following two appointments to the Drug and Alcohol Abuse Council for their knowledge of substance abuse issues: reappointment of Colleen Wareing for a four-year term expiring December 31, 2021; and appointment of Roy W. Cragway, Jr. for the remainder of a four-year term expiring December 31, 2020 to replace Karen Johnson who resigned.

Upon nominations from the Board of Library Trustees and a motion by Commissioner Elder, the Commissioners unanimously agreed to the following appointments to the Board of Library Trustees: to reappoint Rosemary Keech to a five-year term expiring December 31, 2022; and to appoint Leslie Mulligan for the remainder of a five-year term expiring December 31, 2018 to replace Frederick Grant who resigned.

Upon a nomination by Commissioner Bunting, the Commissioners unanimously agreed to appoint Michael Poole to the Building Code Appeals Board for a four-year term expiring December 31, 2021 to replace Richard Mueller whose term will expire December 31, 2017.

Upon a nomination by Commissioner Bertino, the Commissioners unanimously agreed to appoint the following individuals to the Adult Public Guardianship Board: Thomas Donoway and LuAnn Siler for three-year terms each expiring December 31, 2020 to replace Dean Perdue and Debbie Ritter whose terms will expire December 31, 2017; to appoint Nancy Howard for the remainder of a three-year term expiring December 31, 2019 to replace Reverend Guy H. Butler who passed away; and to reappoint Jack Ferry as a professional in the field of disabilities member and Brandy Trader as a nonprofit social services representative member for three-year terms each expiring December 31, 2020.

Upon nominations by Commissioner Lockfaw, the Commissioners unanimously agreed to appoint Tamara White to the Commission for Women for a three-year term expiring December 31, 2020 to replace Laura McDermott who resigned.

The Commissioners recessed until 11:30 a.m.

Maryland Department of Planning (MDP) Acting Secretary Rob McCord conducted a listening session in Worcester County, as part of the initial outreach for the State development plan, "A Better Maryland," to engage and connect with the public, local governments, State agencies, and other stakeholders to solicit feedback about vital resources and information that A Better Maryland might include, and how such a plan can help local governments and State agencies better meet their planning needs. Also in attendance were MDP Assistant Secretary Pat Keller, Local Assistance and Planning Manager Joe Griffiths, and Senior Regional Planner Tracey Gordy. Local elected officials in attendance were Ocean City Mayor Rick Meehan, Berlin Mayor W. Gee Williams, Snow Hill Mayor Charlie Dorman, and Pocomoke Councilman

George Tasker. Secretary McCord stated that MDP representatives met with planning staff from Worcester, Wicomico, and Somerset Counties and a number of municipalities on December 12, 2017 in Princess Anne. He stated that today his staff is here to listen to the concerns of County and town elected officials. He stressed that A Better Maryland will be neither a regulatory document nor a Statewide Comprehensive Plan. Rather it will represent a collaborative effort that reflects the needs of the counties and Baltimore City.

Mayor Williams stated that there is great diversity in Maryland's 157 municipalities, and any plans should encourage responsible development while remaining respectful of the numerous differences that exist not only between cities and counties but even within them.

Mayor Rick Meehan stated that the Town of Ocean City seeks to be a good partner and to work with State and local partners, but he stressed the importance that any planning document reflect the priorities of individual areas. He pointed out, for example, that the Town of Ocean City is categorized by the State as a rural area based solely on year-round Census data, but such a categorization does not accurately represent the summer population. This rural designation adversely effects Ocean City's funding requests. He stated that town officials have developed and implemented plans to redevelop areas of the resort in stages to provide the infrastructure needed to support the town's goals in 2018 and beyond to reinvest in the town to provide needed infrastructure to maintain a first-class, family resort and to continue to make it a more livable, viable year-round community. He concluded that proper ingress and egress to ensure public safety and the smooth flow of traffic is the town's greatest priority, and they hope to continue to work closely with the State to coordinate their efforts to address that priority.

Councilman Tasker thanked MDP staff and the County Commissioners for including the towns in the listening session and expressed his hope that they can all work together to address the various priorities that exist in the towns and County.

Commissioner Church applauded Governor Larry Hogan for recognizing that planning should begin with county governments, a bottom-up rather than top-down method of determining planning priorities. He stated that this approach is a real step forward, and he thanked Governor Hogan and MDP officials for the approach they are taking on behalf of the local jurisdictions.

Commissioner Elder stated that Worcester County is unique, due to its topography and economy, both of which are based on agriculture and tourism, and he reminded State officials that the best planning occurs at the local level by municipal and county officials, not at the State level where officials are removed from the diversity and needs of the local jurisdictions. He stressed that the Commissioners look forward to continuing to work closely with the State.

Commissioner Bunting also applauded Governor Hogan's bottom-up approach to planning, and he thanked MDP staff for meeting with them. He stressed his hope that A Better Maryland would remain a tool based on suggestions rather than mandates to improve coordination between the State and local jurisdictions and not become a Statewide Land Use Plan. He stressed that planning and zoning authority must remain at the local level where representatives understand the unique needs of their individual jurisdictions. He noted that not only is Worcester County a good example of proper planning, but it has also been referenced by State agencies as a model for numerous planning initiatives.

Commissioner Purnell expressed her appreciation for the honesty and transparency displayed by Governor Hogan and the MDP staff and stressed that she looks forward to continuing to have an outstanding working relationship with the State as they work together to develop A Better Maryland.

Commissioner Lockfaw thanked MDP officials for taking the time to meet with and listen to the concerns of the County and towns. He stated that this is how teamwork happens, not through State mandates, but with planning decisions being made at the local level instead of being mandated by the State.

Mr. Griffiths thanked local officials for the positive feedback they provided and asked them to encourage their constituents to take part in an online survey and to sign up for updates about this and future listening sessions at [Abetter.Maryland.gov](http://Abetter.Maryland.gov).

On behalf of the Commissioners, Commissioner Mitrecic extended best wishes for a Merry Christmas and a happy and safe New Year to those in attendance at the meeting and those who will view the meeting online and encouraged residents to keep watching.

The Commissioners answered questions from the press, after which they adjourned to meet again on January 2, 2018.