

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

September 15, 2020

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 Elder, seconded by Commissioner Bertino, 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 Harold L. Higgins, Assistant Chief Administrative Officer Weston Young, County Attorney Roscoe Leslie, Public Information Officer Kim Moses, Human Resources Director Stacey Norton; Development Review and Permitting (DRP) Director Ed Tudor, and DRP Deputy Director Jennifer Keener. Topics discussed and actions taken included the following: hiring Deven Scott as a Correctional Officer Trainee within the County Jail; approving a training reimbursement agreement for new hires in Emergency Services; conducting an employee disciplinary hearing and other personnel matters; receiving legal advice from counsel; and performing administrative functions, including discussing potential board appointments.

Following a motion by Commissioner Elder, seconded by Commissioner Bertino, the Commissioners unanimously voted to adjourn their closed session at 10:08 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 Pastor Dale Brown of the Community Church at Ocean Pines and pledge of allegiance, announced the topics discussed during the morning closed session.

The Commissioners reviewed and approved the open and closed session minutes of their September 1, 2020 meeting as presented.

The Commissioners presented commendations to the following recently-retired employees to recognize their dedicated service to Worcester County Government: Circuit Court Judicial Assistant Teresa Jackson (35 years); Assistant Chief Administrative Officer Kelly Shannahan (30 years); County Jail Corporal William Riley (18 years); Public Works Maintenance Division Custodial Worker I Elizabeth Watson (33 years); Sheriff's Office K9 Officer Regan (eight years), State's Attorney's Office Community Service/Public Information Program Officer Mallory Eckman (15 years) and Treasurer's Office Accounting Manager Kandi Choisser (29 years).

The Commissioners presented a proclamation to Worcester County Tourism Director Melanie Pursel and Kate Patton, Executive Director of the Lower Shore Land Trust (LSLT), recognizing September 4-27, 2020 as River Rally 2020 and September 27 as World River Day in Worcester County and encouraging residents and visitors alike to explore Worcester's outdoors. Leading up to World River Day, the LSLT is hosting River Rally 2020, a virtual event aimed at providing environmental, cultural, and historical information and promoting healthy lifestyles.

The Commissioners conducted a work session on draft Bill 20-7 (Zoning – Casino Entertainment District), which seeks to add a Casino Entertainment District as an overlay district in the Zoning and Subdivision Control Article and to establish such a use as a permitted use in the A-2 Agricultural District. Draft Bill 20-7 was introduced by Commissioners Bertino, Bunting, Church, Elder, Mitrecic, Nordstrom, and Purnell on August 18, 2020. Development Review and Permitting Director Ed Tudor reviewed the zoning history of the Ocean Downs Property, noting that a portion of the property zoned A-1 Agricultural District was rezoned to A-2 Agricultural District, and the portion zoned B-2 General Business Category was rezoned C-2 General Commercial District, maintaining the same general uses. He noted that the property is almost surrounded by C-2 zoned properties, as a result of the Comprehensive Rezoning of properties across MD Rt. 589 from Ocean Downs and recent rezoning of properties to the north on MD Rt. 589. Mr. Tudor explained that the Board of Zoning Appeals granted a Special Exception for the fairgrounds, which permits over 21 various events, with slots approved by State referendum in 2008. He then reviewed the mix of uses that could be permitted in the proposed overlay district under the C-2 portion of the property and the uses allowed by the fairgrounds by special exception. He also advised that the underlying A-2 zoning district allows 65 different principle and special exception uses, though the designation as an overlay district does not happen automatically. Rather, it is a two-step application process with the Technical Review Committee and Planning Commission that includes requirements for traffic studies and a community impact statement. He clarified that an overlay district can only be established on A-2 zoned property that has a fully licensed and operating Casino, noting County staff worked with the applicant to develop a text amendment that would fit the County Code, and most of the proposed uses would be permitted with the existing zoning by special exception.

In response to concerns raised by Commissioner Bunting, Mr. Tudor confirmed that the principal and special exception uses that could be permitted on the casino property would not be permitted on any other A-2 property, unless said property was the site of an authorized casino. In response to follow up questions from Commissioners Bertino and Bunting, Mr. Tudor confirmed that the property owner currently cannot have a hotel/motel, restaurant, bar, nightclub, or banquet hall on the portion of the property zoned A-2, but such uses are permitted by the County on the 7.77 acres of the property zoned C-2 and would be permitted if the overlay district is approved. However, some of these same uses would also require approval from the State. Commissioner Bunting stated that such uses are inappropriate in the A-2 district, and he would prefer to protect the integrity of the A-2 district, which acts as a buffer between the A-1 district and districts that allow higher use activities.

Commissioner Bertino expressed concerns regarding taking any actions that could potentially increase on MD Rt. 589, an impacted highway, prior to dualizing this roadway.

Following some discussion, Commissioner Mitrecic thanked staff and the public for attending the work session and advised that the public hearing on the matter will take place

October 20, 2020.

The Commissioners conducted a public hearing to obtain public comment on the proposed submission of a Community Development Block Grant (CDBG) application for funds that may be awarded to the County during round two of the federal CARES Act. Senior Budget Accountant Kim Reynolds advised that the County is applying for \$336,000 in funding, which would require an overall in-kind match of \$29,549. She stated that any funds awarded would be used by Diakonia, Worcester County's grant sub-recipient, to assist up to 70 county residents, including individuals and family groups, with emergency rental assistance for a period of up to six months.

Commissioner Mitrecic opened the floor to receive public comment.

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

Upon a motion by Commissioner Bertino, the Commissioners unanimously adopted Resolution No. 20-26, Maryland CDBG Program Coronavirus Funding.

Commissioner Bertino thanked Ms. Reynolds for her efforts to secure computers for the Worcester County Developmental Center.

The Commissioners reviewed and discussed various board appointments.

Upon a nomination by Commissioner Purnell, the Commissioners unanimously agreed to appoint Devita Washington to the Commission on Aging for a three-year term expiring September 30, 2022.

Pursuant to the request of Local Management Board Director Jessica Sexauer and upon a motion by Commissioner Nordstrom, the Commissioners unanimously authorized Commission President Mitrecic to sign the Community Partnership Agreement between the County, the Local Management Board (LMB), and the Governor's Office for Children for FY21 with grant funds of \$755,043 to assist Building Bridges; Worcester Education, Employment, and Empowerment; Worcester Connects, a mentoring program; Local Care Team Coordinator; and Evaluating and Enhancing Outcomes for Worcester's children, youth, and families.

Pursuant to the recommendation of Assistant Chief Administrative Officer Weston Young and the request of Circuit Court Administrative Judge Brian Shockley and upon a motion by Commissioner Nordstrom, the Commissioners voted 5-2, with Commissioners Bertino and Bunting voting in opposition, to authorize Commission President Mitrecic to sign the license agreement between the Snow Hill Volunteer Fire Company (SHVFC) and the County Commissioners, on behalf of the Worcester County Circuit Court, to use of portion of the SHVFC building for jury selection, which can include a pool of 60 or more individuals, to address social distancing in light of COVID-19 concerns.

Commissioner Bertino stated that certain logistical and safety concerns should be resolved prior to moving forward with this request. Commissioner Bunting concurred.

The Commissioners conducted a concurrent public hearing to consider applications filed by Hugh Cropper, attorney for Mark Odachowski, to amend the Comprehensive Water and Sewerage Plan and to expand the Mystic Harbour Sanitary Service Area (SSA) to include an

entire 10-acre property located at 12424 Old Bridge Road in West Ocean City (WOC), and more specifically identified on Tax Map 26 as Parcel 193, and for a sewer planning category as an S-1 (immediate to two years) within the Mystic Harbour SSA to serve a proposed 41-unit residential development. The westerly portion of this parcel is included in the Mystic Harbour SSA.

Environmental Programs Director Bob Mitchell reviewed the proposed amendment and stated that the applicant is also seeking an expansion of the Mystic Harbour SSA and will seek an allocation of equivalent dwelling units (EDUs) of sewer allocation from the Mystic Harbour SSA. He noted that the subject property is already designated S-1 in the plan for the WOC sewer planning area, which has limited capacity, and overlays the subject property and adjacent properties. The applicant has seven sewer EDUs in the Mystic Harbour SSA, one of which has been used in connection with his single-family dwelling, and the proposed expansion of the Mystic Harbour sewer planning area would accommodate the proposed sanitary needs of this development. Mr. Mitchell stated that the subject property is mapped as an Intensely Developed Area (IDA) for the Atlantic Coastal Bays Critical Area, with the easternmost portion of the property located outside the critical area. He explained that, if the SSA expansion is approved, the applicant will apply to purchase 35 additional sewer EDUs, pursuant to Resolution No. 17-19. He concluded that this proposal, which does not require the expansion of the Mystic Harbour Wastewater Treatment Plant due to the recent upgrade, is consistent with the County's Comprehensive Development Plan and the Planning Commission granted the proposal a favorable recommendation.

Commissioner Mitrecic opened the floor to receive public comment.

Mr. Cropper concurred with the findings of the Planning Commission and County staff and asked the Commissioners to accept these findings as his testimony also. He advised that his client is not asking for an increase in capacity, but rather he is seeking an expansion of the Mystic Harbour SSA, so that this parcel is not cut in half by a service line.

Land Planner Bob Hand explained that the entire R-4 zoned property is mapped as an IDA, and the proposed expansion is consistent with infill development, within the Comprehensive Plan and Land Use Map.

Consultant Dane Bauer, co-owner of H&B Solutions, LLC, advised that the bisection of this property is not a good idea from a water and sewer planning perspective. He stated that service from the Mystic Harbour SSA is the preferable option and is financially feasible.

Commissioner Bertino stated that Resolution No. 17-19 specifically says EDUs may not be transferred from one service area to the other, and that the capacity may only be allocated to those properties according to the procedures outlined within said resolution. In response to a question by Commissioner Bertino, Enterprise Fund Controller Jessica Wilson stated that there is a provision within Resolution No. 17-19, the annual reservation fee, which has been paid by the applicant, is non-refundable.

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

Following some discussion and upon a motion by Commissioner Bunting, the Commissioners unanimously approved Resolution No. 20-27, amending the Water and Sewerage Plan for Reclassification/Expansion of the Mystic Harbour SSA, and Resolution No. 20-28, expanding the Mystic Harbour SSA for 12424 Old Bridge Road.

Pursuant to the recommendation of Housing Program Administrator Jo Ellen Bynum and

upon a motion by Commissioner Bertino, the Commissioners unanimously approved the sole bid of \$14,249 from Doug Vann Excavating, Inc. during the rebidding to replace a single-family home septic system in the Stockton area. Ms. Bynum stated that the County has now exhausted the options available under the terms of the Community Development Block Grant (CDBG) agreement with the State, which requires projects receiving less than three bids to be rebid a minimum of one additional time, and is now able to use CDBG funds for this project.

Public Works Director John Tustin informed the Commissioners that the next Household Hazardous Waste Collection Day and electronics collection (limited to computers, servers, and laptops) will take place Saturday, October 31, 2020, from 10:00 a.m. to 2:00 p.m. at the West Ocean City Park and Ride. Mr. Tustin advised that the towns of Ocean City, Berlin, Snow Hill, and Pocomoke will be notified and invited to participate in this event.

Pursuant to recommendations from Mr. Tustin and upon a motion by Commissioner Bertino, the Commissioners unanimously agreed to post the following speed limit signs: one 25 mph sign on Carry Back Road and one 25 mph sign on all streets on Secretariat Drive and Sea Biscuit Road in response to request from Beth Monte of Equestrian Shores in Snow Hill; and one 25 mph speed limit sign on Cove Court and Terrapin Point Road and one 25 mph speed limit sign on all streets on Fox Run and Knoll Hill Drive (which will also cover Hammock Point) in response to a request from Maria Haynes of Genezer Estates. Mr. Tustin stated that there are currently no speed limit signs in these subdivisions, so a speed limit of 50 mph currently governs the area

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Bunting, the Commissioners unanimously approved the no-cost Change Order No. 1 to allow Bunting and Murray Construction to construct a new precast wet well at the Newark Wastewater Treatment Plant instead of modifying the existing chlorine contact tank, as part of the Newark spray irrigation project.

Pursuant to the request of Emergency Services Director Billy Birch and upon a motion by Commissioner Bunting, the Commissioners unanimously approved the State Homeland Security Program 2020 Sub-Recipient Grant Agreement administered by the Maryland Emergency Management Agency (MEMA) for the Department of Homeland Security, awarding Worcester County Emergency Services a total of \$97,308.52 from September 1, 2020 through February 28, 2023 for approved programs and activities.

The Commissioners met with Emergency Services Director Billy Birch to review and discuss changes to the 2020 Hazard Mitigation and Resilience Plan that were made at the request of the Commissioners on September 1, 2020. Commissioner Bertino stated that he had not received the requested strike-and-replace copy of the 2020 plan update until 4:00 p.m. last night and could not read some portions where the text had been reduced in size. Commissioner Mitrecic noted that the revised plan included a list of all of the changes that had been made to the document.

In response to a question by Commissioner Nordstrom, Edward Werkheiser of the Maryland Emergency Management Agency, stated that, even though the County's current plan

has expired, there is no drop-dead date to adopt the new plan, and any emergency protective actions would be covered for individual and public assistance.

Upon a motion by Commissioner Bertino, the Commissioners unanimously agreed to table further discussion until their next meeting and requested staff provide them with a more legible, strike-and-replace copy of the Hazardous Mitigation Plan and requested Smith Planning and Design, LLC, the County's consultants for the 2020 plan update, attend the meeting to address any questions the Commissioners may have.

Pursuant to the recommendation of Development Review and Permitting Director Ed Tudor and upon a motion by Commissioner Bertino, the Commissioners unanimously adopted the Findings of Fact and Rezoning Resolution No. 20-3 for Rezoning Case No. 423 to rezone approximately two acres of land located on the easterly side of Elm Street, to the south of U.S. Rt. 50 and north of Old Bridge Road in West Ocean City, and more specifically identified on Tax Map 27 as Parcels 200, 201, 203, 204, 207, and 577 from R-3 Multi-Family District to C-2 General Commercial District.

Commissioner Nordstrom recognized and extended his gratitude to the multiple fire companies that responded to a major fire at Eastern Shore Forest Products in Pocomoke recently.

In response to a question by Commissioner Bertino, Assistant Finance Officer Jessica Wilson confirmed that waterline damages of \$114,000 caused by Comcast from December 1, 2019 to date in Ocean Pines include costs incurred during a recent water outage. County Attorney Roscoe Leslie agreed to provide the Commissioners with an update on the status of payments from Comcast for costs owed to the County due to damages at their next meeting.

Commissioner Elder requested an update from the Board of Education (BOE) regarding broadband availability for children, particularly in rural areas. He noted that it is his understanding that there are not enough hot spots for all children to complete their school instruction. He concluded that educating children is one of the Commissioners' highest priorities, and they need to work together with the BOE to assure children in the rural areas are not left behind.

The Commissioners answered questions from the press, after which they adjourned at 11:33 a.m. to meet again on October 6, 2020.