

Minutes of the County Commissioners of Worcester County, Maryland

September 22, 2020

Emergency Session

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

The Commissioners conducted an emergency meeting to discuss a time sensitive funding assistance request from the Town of Snow Hill and Pocomoke City to purchase a riverboat and its associated economic development and tourism benefits to this region.

Commissioner Church was temporarily absent at the beginning of the meeting.

The Commissioners met with Development Review and Permitting (DRP) Director Ed Tudor and Deputy Director Jennifer Keener to discuss a zoning issue. Commissioner Bunting stated that he read the legal advertisement in which DRP, acting as the applicant, is seeking a variance from the Board of Zoning Appeals (BZA) after having erred in approving an application for a pole barn on St. Martin's Neck Road that was constructed within the front-yard setback. He stated that it is his opinion that ZS1-116 (4)(A)(3) of the Board of Zoning Appeals Article of the County Code, which states that "the special condition or circumstances did not result from the actions of the applicant," does not allow DRP to act as the applicant, as the applicant cannot be the person who created the mistake. He further stated that the application should not have been advertised as a variance to the lot width, but rather as an after-the-fact variance for an encroachment into the front yard of 99.1 feet. He stated that the simple solution would be for the property owner to be the applicant. Mr. Tudor stated that he would defer to the opinion of legal counsel regarding whether the County can do so, and if not, he would revise the advertisement.

In response to a question by Commissioner Mitrecic, Mr. Tudor stated it has been a long-standing policy of DRP, based on previous advice from legal counsel, that this was an appropriate way to help people when DRP makes a mistake. County Attorney Roscoe Leslie stated that whether or not the County is the applicant is a policy decision, one set forth by prior County Commissioners, and it is up to the current County Commissioners to determine if they want to maintain that policy. Commissioner Bunting disagreed with Mr. Leslie's interpretation of this section of the County Code.

Commissioner Church arrived at the meeting.

Upon a motion by Commissioner Bunting, the Commissioners unanimously agreed to pull Zoning Case No. 20-47 from the BZA agenda on October 6, 2020 and to reschedule the item for a later date after revising the advertisement to identify the owner as the applicant and the request to be an after-the-fact variance for an encroachment into the front yard of 99.1 feet.

The Commissioners discussed a proposal seeking support for the Town of Snow Hill and Pocomoke City to acquire the Black Eyed Susan, a 1988, 149-passenger riverboat, or a similar vessel. On August 18, 2020 the Commissioners authorized County staff to develop a proposal to institute a year-round riverboat operation on the Pocomoke River that would serve as an economic engine for both Snow Hill and Pocomoke. Chief Administrative Officer Harold Higgins stated that the Worcester County Economic Development team believes this endeavor meets the strategic goals to provide new jobs and assist with economic growth in Snow Hill and Pocomoke.

Tom Perlozzo, Director of Recreation, Parks, Tourism, and Economic Development, stated that an opportunity like this to promote the southern end of the County as a tourism destination does not come along often, and there is an urgency to take action due to the interest from other jurisdictions in acquiring this vessel. He then directed attention to the packet items to be considered as follows: letters from Snow Hill and Pocomoke City supporting the venture; a contract between the Town of Snow Hill (buyer) and Scarlett Bird, LLC (seller) to purchase the river boat for \$324,500; emails from the current boat broker referencing the urgency of the purchase, letters from Ocean City, Berlin, and various hospitality partners indicating their intentions to participate; a United States Coast Guard Vessel Inspection Report; and a marine survey report. Mr. Perlozzo advised that on September 11 County staff met with both Snow Hill and Pocomoke City officials who stated that they were on board with the project. The following day they received the opportunity to purchase the Black Eyed Susan. He stated that two items need to be resolved: transferring the approved use of the Department of Housing and Community Development (DHCD) Community Legacy Grant of \$100,000 within the County budget from Tyson Foods to the Town of Snow Hill to purchase the riverboat; and Snow Hill and Pocomoke to develop a joint-use agreement for the vessel, an agreement that would be contingent upon the provision of County funding to cover the cost of purchasing and repairing the vessel. This funding is proposed to be derived from the \$100,000 Community Legacy Grant and \$250,000 in CARES Act funding allocated for advertising rather than a County taxpayer contribution. Mr. Perlozzo stated that this opportunity checks all the boxes for Snow Hill and Pocomoke, as it makes use of the Pocomoke River and would be an economic draw that requires little County risk. This boat is one of nine available in the United States, and if the venture fails for any reason, the collateral on the boat could be returned to the County.

In response to a question by Commissioner Mitrecic, Mr. Perlozzo confirmed that the Black Eyed Susan would be able to navigate back and forth along the Pocomoke River and clear any overhead obstacles, such as the Pocomoke River Bridge. In response to a question by Commissioner Bertino, Mr. Perlozzo confirmed that the Black Eyed Susan is currently owned by Scarlett Bird LLC, with Economic Development Deputy Director Lachelle Scarlato and her husband acting as managing partners.

Snow Hill Town Manager Gary Weber thanked the Commissioners for past funding support and for agreeing to host this emergency meeting to discuss a request from the Town of Snow Hill and Pocomoke City for County funding to purchase the Black Eyed Susan riverboat. He stated that the boat could be a venue for promoting music and the arts, as well as educational opportunities, and generate dozens of restaurant jobs. He stressed that this added attraction would stimulate economic development and tourism by drawing thousands of visitors from within a one-hour drive to the south end of the County, thus promoting job growth and filling empty stores. He stated that he looks forward to being part of a partnership team tasked with

putting together a request for proposals (RFP) to identify the right boat operator, who will be integral in developing a business plan for the riverboat, and to protect the interests of all parties.

Following Mr. Weber's presentation, the Commissioners discussed their questions and concerns on this matter.

In response to a question by Commissioner Bertino, Chief Administrative Officer Harold Higgins recommended approving this request.

Commissioner Bertino expressed concern that there is no proforma, no marketing plan, and no business plan that he has seen, yet the County is being asked to be a bank, so to speak, to fund this purchase before knowing whether the citizens of Snow Hill even want a riverboat. He then asked a series of questions to determine who would own the riverboat, the feasibility of acquiring the proposed vessel, the terminal facilities needed to host the vessel, whether the town will assume the \$190,000 bank note on the riverboat, the number of trips needed to make this a viable venture, and additional operational, financial, and staffing-related questions.

In response to acquisition questions, Mr. Weber confirmed that the Snow Hill Mayor and City Council support this venture and will host a meeting at 6:00 p.m. tonight to obtain the views of Snow Hill citizens on the proposed riverboat operation. He stated that the town would like to partner with the County and Pocomoke City to acquire this vessel, which would be moored at the dock on Bank Street adjacent to ample public parking in Snow Hill. He confirmed that the town may assume responsibility for the existing bank note on the boat, but advised that the State may extend a low-interest loan of \$250,000 to the town, which could be used to cover boat maintenance or to help repay the County loan.

In response to operating questions, Mr. Weber stated that the town has not yet determined ticket costs, which would vary based on the type of trip being offered, or the number of trips that would be needed to cover annual expenses and generate income. However, he explained that there is no competition in Worcester or Wicomico for this type of year-round entertainment venue. He estimated staffing needs to include a captain, a first mate, and roughly four deckhands, along with servers and bartenders. He then compared the economic potential of the riverboat operation to that of his former restaurant, the Blue Dog Café, which generated enough income on Friday nights alone to cover the restaurant's operating expenses each year for 10 years. He stated that this boat will pay for itself, and business plans should be developed in cooperation with the future boat operator. He reconfirmed that the boat would be able to navigate the river and that the first deck of the boat is handicap accessible. He then reviewed various options for addressing any potential operational and safety issues that could occur while the boat is traveling on the river.

With regard to financial questions, Mr. Weber stated that the town has requested but has not yet received financial records on the riverboat from Havre De Grace. He confirmed that Snow Hill officials do not intend to come back to the County to request an annual grant to help with expenses associated with the riverboat.

Commissioner Bertino stated that he believes that doing something with the Pocomoke River is important. However, he expressed concern that the County is being asked to redirect grant funds or for County taxpayers to extend loan funds to the town, and it is difficult to say yes with so many unanswered financial questions. He then asked if the Pocomoke City Mayor and Council are on board with Snow Hill on this proposed venture. Pocomoke City Mayor Susan Marshal Harrison stated that Pocomoke officials are very interested in being a partner on this project, and that they met last night to discuss the issue and agreed that they want to have a sound financial plan in place before committing to participate. Pocomoke City Manager Jeremy

Mason stated that everyone is on board if it makes sense, but that they would like to have more information before agreeing to accept responsibility for a \$200,000 loan.

Mr. Higgins stated that he had just recently received the information necessary for him to complete his due diligence on this loan request, and based on the findings he believes this to be a viable financial endeavor. Therefore, he could support this project. He then reviewed an optional fee structure designed to cover operating costs, noting that ticket prices could range from \$40 to \$95 per passenger based on the types of venues being offered. In response to questions by Commissioner Bertino, Mr. Higgins stated that research shows that these boats hold their value. He stated that, if the Commissioners approve this request, County staff should develop a secured loan. Snow Hill would own the vessel. However, if for any reason the venture fails, proceeds from the sale of the riverboat would be allocated to the County to repay the loan.

Commissioner Nordstrom stated that the best option is for Snow Hill and Pocomoke City to operate the Black Eyed Susan together as one entity, and the proposed County loan could be offset almost entirely by Community Legacy and CARES Act funds. He agreed that not all of their questions can be answered at this point, and there is a lot of work to be done. However, this venture is important for the southern end of the County, and they will not get this opportunity again. He stated that he has talked with the elected officials and many residents of Snow Hill and Pocomoke as well as others in the County who have put 100% of their effort, interest, and excitement behind this venture because it could revitalize the downtown areas of both Snow Hill and Pocomoke. He concluded that he wished the County had more time to do more due diligence, but that if they do not make a decision today they may lose this opportunity and may never get another again. Therefore, he implored his fellow Commissioners to recognize how important this is for Snow Hill and Pocomoke, which do not have the same economic engine as the north end of the County, to recognize how long these towns have been depressed economically, and how long they have needed something for economic development. He stated that this opportunity will generate jobs, bring visitors to town, and entice new business to the area to fill long-vacant storefronts. Thus, this is a step in the right direction.

Commissioner Purnell concurred and requested Mr. Higgins provide the Commissioners with a copy of the financial information that he has compiled on the riverboat.

Commissioner Bunting stated that allocating \$250,000 in CARES Act grant funds toward a County loan to Snow Hill to purchase a riverboat owned by a County employee may be legal, but it does not pass the smell test. He noted that they have no way of knowing how redirecting this CARES Act funding could affect others. In response to a series of questions by Commissioner Bunting, Mr. Weber pointed out that this is an attraction that those in this area cannot get anywhere else, noting that this boat would cause a huge stir in the County and State in the coming years and generate far more interest than could be generated by devoting the \$250,000 in CARES Act funding toward advertising. He committed to working very closely with Department of Housing & Community Development Secretary Kenneth Holt to pursue the possibility of forgiving the use of public funds for the loan to purchase the riverboat. He further noted that the request from the town includes funding of roughly \$50,000 to cover electrical repairs to the boat; however, whoever is selected as the riverboat operator would be benefitting from the generation of revenues and would, therefore, also be responsible for covering future operating and maintenance costs. Commissioner Bunting stated that he would like to find a way to make economic development prosper in the south end of the County, but that he does not believe the plan presented here today is a good plan. Furthermore, he expressed concern that the

riverboat operation will not be able to sustain itself, thus leaving County taxpayers on the hook for these costs both now and in the future.

Commissioner Church stated that he has been looking for opportunities to spur economic development in the south end of the County for 20 years. He noted that he has a few concerns, but he believes the benefits to Snow Hill and Pocomoke, communities that need more help than Ocean City or Berlin because of their proximity to the ocean. He stated that this is a unique opportunity, that there is no other competition in this market, and based on the letters of support from all of the communities, he sees this venture as a win-win for all of Worcester County. With reference to the current ownership of the boat, Commissioner Church advised that there is no conflict of interest with a County employee owning the riverboat, as that ownership has been disclosed and all parties are aware of it. He stated that he is as concerned as his colleagues about spending taxpayer money, but this should generate revenue, and the Town of Berlin, Ocean City, and entities like the Harrison Group have indicated that they are willing to promote this opportunity. Therefore, he will vote in favor of the requested loan.

Commissioner Elder stated that he is torn, as he has been wracking his brain for years about how to use the Pocomoke River to promote the towns. However, he cautioned that he has been taken advantage of in the past when rushed into making a decision. Commissioner Elder stated that he would like to know how often boat cruises took place in Havre De Grace and how full the boat was when it left the dock. He then expressed concern that Pocomoke City officials are not yet on board with this venture. Commissioner Nordstrom stated that he spoke with each member of the Pocomoke City Council, as well as the mayor and town manager, who have said they are 100% behind this venture, but that they have not yet agreed to participate because they have not yet been given the terms of the loan from the County.

Commissioner Mitrecic stated that there are issues in the marine survey that concern him but that said issues could be corrected. He noted that the key to making this a great venture would be to attract the proper operator, perhaps one of the bigger restaurants operating in the County. He stated that on September 1, 2020 the Commissioners hemmed in where \$250,000 in CARES Act funding allocated for advertising could be used. He then noted that the Commissioners could spend \$250,000 on television and radio advertising and fail to get the same bang for the buck that this venture will generate. He concluded that the proposed riverboat operation will be a big gain for the county.

Following much discussion, the Commissioners voted 5-2, with Commissioners Bertino and Bunting voting in opposition, to extend a no-interest loan to the Town of Snow Hill for up to \$400,000 to purchase the Black Eyed Susan riverboat and cover projected repair costs identified in the marine survey or to purchase a similar riverboat, to authorize staff to negotiate the proposed terms of the loan with the Town of Snow Hill, and to present the proposed loan details to the Commissioners for their future approval. If possible, funding for the County loan will be offset by utilizing \$250,000 in CARES Act grant funds and \$100,000 in Community Legacy grant funds.

Commissioner Mitrecic recognized Senator Mary Beth Carozza and thanked her and others in attendance for joining the Commissioners for this emergency session.

The Commissioners answered questions from the press, after which they adjourned at 4:37 p.m. to meet again on October 6, 2020.