

Minutes of the County Commissioners of Worcester County, Maryland

October 18, 2016

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

Following a motion by Commissioner Mitrecic, seconded by Commissioner Elder, 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), (4) 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; Stacey Norton, Human Resources Director; and Merry Mears, Economic Development Director. Topics discussed and actions taken included: hiring Tyler Hall as a Maintenance Worker I for the Maintenance Division and promoting Vince Littleton from Transfer Station Attendant to Landfill Operator I within the Solid Waste Division of Public Works; posting to fill vacancies for one Transfer Station Attendant and one Recycle Worker I for the Solid Waste Division of Public Works, and one Building Housing & Zoning Inspector I for Development Review and Permitting; confirming the hiring of Sherril Prettyman as a part-time Animal Control Officer within the Animal Control Division of the Sheriff's Office, and Brittani Roksiewicz and Lynn Nixon as Assistant State's Attorneys and the rehiring of Richard Taylor as a part-time Investigator within the State's Attorney's Office until his replacement begins work in January 2017; discussing a potential business organization to locate in the County; receiving legal advice from counsel; and performing administrative functions.

After the closed session, the Commissioners reconvened in open session. Commissioner Bunting called the meeting to order and announced the topics discussed during the morning closed session.

The Commissioners reviewed and approved the minutes of their October 4, 2016 open and closed session meetings as presented.

Bill Sammler, Warning Coordination Meteorologist at the National Weather Service Office in Wakefield, Virginia met with the Commissioners and Emergency Services Director Fred Webster to certify Worcester County as StormReady. Mr. Webster stated that no community is storm proof, but every community can be StormReady, a program started by the National Weather Service to help Emergency Managers ensure their communities are ready when a crisis

occurs. He stated that Worcester County met the criteria for this certification due to the efforts of Emergency Services staff who distributed National Oceanic and Atmospheric Administration (NOAA) weather radios to schools and other government office buildings, co-hosted SKYWARN weather spotter training classes for the general public, and provided weather awareness during Community Emergency Response Training (CERT) programs and at local civic group presentations. Mr. Sammler congratulated the Commissioners and advised that the Town of Ocean City and Wicomico County were previously designated StormReady, and today Somerset County and Worcester County join them. Commissioner Bunting thanked staff and stated that department heads and staff come together as a team in the Emergency Operations Center (EOC) in advance of storms and other natural disasters to help keep the public prepared and informed, and he thanked them for their roles in assuring that the County is StormReady.

Pursuant to the written request of Board of Education (BOE) Chief Financial Officer Vince Tolbert and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Commission President Bunting to sign a letter supporting the BOE's request to be exempt from the local school system audit in Worcester County by the State Office of Legislative Audits (OLA) scheduled to begin in FY17 for reasons outlined in a letter from the Worcester County BOE. The reasons for the BOE's request to be exempt from the OLA is that the organization is subject to several on-going audits, and the additional 1,200 hours of manpower that must be redirected to assist with the OLA would place an overwhelming demand on BOE resources given the small staff and number and scope of other audits.

Pursuant to the request of Economic Development Director Merry Mears and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Ms. Mears to participate in Leadership Maryland, a year-long, independent, statewide leadership program designed to develop informed, senior-level leaders who have access to more than 1,000 top Maryland leaders and who will get involved in vital issues, such as education, economic development, health and human services, criminal justice, the environment, agriculture and multiculturalism. Tuition is \$7,350, with most participants eligible for financial aid of up to \$3,675.

Pursuant to the recommendation of Library Director Jennifer Ranck and upon a motion by Commissioner Church, the Commissioners unanimously approved the proposal from Gipe Associates, Inc. of Easton, Maryland for the design of access control, intrusion detection and video surveillance systems for the new Berlin Branch Library at a revised cost of \$6,800. Ms. Ranck explained that this proposal, which is in addition to the architectural and engineering services provided by Jeff Schoellkopf and JSD, Inc. of The Design Group of Warren, Vermont, will provide a comprehensive plan, more accurate cost estimates, and coordination between control and electrical designs that will allow the systems to be competitively bid with other subcontract packages for the library construction. Commissioner Bertino thanked Ms. Ranck for negotiating a reduced price for the services.

The Commissioners met with Public Works Director John Tustin to discuss a request from Mary Johnson-Willis for the County to construct a bike lane on South Point Road in Berlin.

Mr. Tustin stated that the existing road has a 40-foot right-of-way (ROW), and installing a bike path would require a minimum of five additional feet of paved surface on one side of the road for foot and bike traffic traveling in both directions for a distance of 3.5 miles. He stated that the project would cost in excess of \$100,000 for paving alone, and this does not include the funding that would be required to purchase the extra ROW needed to accommodate the request. Therefore, he recommended installing "Share the Road" signs along South Point Road, which have been installed on other County roads with much success by providing visual warnings to drivers that walkers and bikers may be on the road at any time.

Commissioner Church stated that he has received several phone calls from South Point residents opposed to constructing a bike lane in that area because the road is too busy and too narrow. In response to a question by Commissioner Lockfaw, Mr. Tustin stated that the State Highway Administration (SHA) has re-purposed hard shoulder areas on several area State roads for use as bike lanes, but that County roads do not have hard shoulders. He advised that Roads Division staff would cut back vegetation in the ROW on South Point Road to improve sight distance and post "Share the Road" signs prior to sharp turns.

Upon a motion by Commissioner Lockfaw, the Commissioners unanimously approved Mr. Tustin's recommendation to install "Share the Road" signs along South Point Road.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Elder, the Commissioners unanimously agreed to waive the standard bid process and accept the proposal from Sherwood-Logan & Associates, Inc. of Annapolis, Maryland for the purchase of two Flygt Pumps at a total price of \$32,774 to replace the pumps at Ocean Pines Pump Station S. Mr. Tustin reiterated that the request to waive bidding was to ensure consistency in the pump brand, as Flygt pumps are now being installed in all County pump stations, and funds for the purchase are available in the 2014 Bond Issue. In response to a question by Commissioner Lockfaw, Mr. Tustin stated that staff had previously priced pumps from other suppliers, which were at least 10% higher than Sherwood-Logan.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Bertino, the Commissioners unanimously agreed to waive the standard bid process and accept the proposal from George, Miles and Buhr (GMB) of Salisbury, Maryland to develop performance specifications and solicit proposals from three qualified aeration system manufacturers that are most compatible with County wastewater facilities to replace the aeration system in Treatment Unit No. 3 at the Ocean Pines Wastewater Treatment Plant (WWTP). He advised that funds for the project are available in the 2014 Bond Issue. In response to a question by Commissioner Bertino, Mr. Tustin explained that the process will help the County secure the best system for the needs at the Ocean Pines WWTP.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously accepted the low bid from Murtech, Inc. of Salisbury, Maryland at a cost of \$147,714 for the concrete pipe option for construction of the Colona Road Culvert replacement over Little Mill Creek near Pocomoke. In response to a question by Commissioner Elder regarding the \$300,000 difference between the two bids that had been received, Mr. Tustin stated that Murtech has been the County's marine contractor on several projects, and he feels

comfortable accepting this bid.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously approved bid specifications to purchase one current model year 6,800-gallon tank trailer to be utilized by the Solid Waste Division of Public Works to transport leachate from the Central Landfill to various County wastewater facilities. Mr. Tustin advised that funds of \$66,000 are available within the FY17 budget for this purchase.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Elder, the Commissioners unanimously approved bid specifications to purchase one trailer-mounted straw-blower power mulcher for the Solid Waste Division of Public Works. Mr. Tustin advised that funds of \$35,000 are available within the FY17 budget for this purchase.

In response to questions by Commissioner Lockfaw, Mr. Tustin advised that recent flooding caused significant damage to a culvert on Sheephouse Road/Big Mill Road that connects MD Rt. 12 and U.S. Rt. 13 in the Stockton area, which washed away about a 50-foot stretch of roadway and resulted in the need to close a portion of the roadway to all traffic. He stated that after Delmarva Power addresses downed power lines in the area his staff will be able to remove fallen trees from the roadway, evaluate the extent of the damage and initiate emergency repairs to fast-track the bid process, with the County eligible for 80% matching funds from the State to aid in repair costs.

The Commissioners met in legislative session.

The Commissioners met with Mr. Tudor to review a proposed text amendment application on poultry operations that was drafted by County staff at the request of the Planning Commission to replace an earlier text amendment application submitted by Harold Scrimgeour on February 29, 2016. Mr. Tudor stated that staff had voiced a number of concerns with Mr. Scrimgeour's amendment as drafted, including the elimination of poultry houses from the allowable uses in the E-1 Estate District, provisions for setback reductions based on neighboring property owner agreements, certain setback provisions and various other technical details. Therefore, after the staff presentation, the Planning Commission requested staff draft a proposal for consideration, which was drafted and presented at the Planning Commission meeting on October 6. He stated that, much like Mr. Scrimgeour's amendment, the staff version takes a whole new approach to the regulation of poultry operations in the County. It removes poultry houses from the list of other agricultural structures in the Code and establishes an entirely new section dealing with just poultry operations, defines a number of new terms, greatly increases setbacks beyond current standards, establishes a density limitation on poultry houses by the use of a sliding scale that increases the lot area requirements as the number of poultry houses increases, requires vegetative buffers to be established, and sets forth provisions for reductions in setbacks and buffers. He stated that after the staff version of the text amendment was presented, Mr. Scrimgeour withdrew his proposed text amendment application, and the Planning Commission gave a favorable recommendation to the staff version of the text amendment.

Commissioner Bunting thanked staff for the presentation, after which the Commissioners declined to introduce the proposed legislation at this time. Commissioner Bunting stated that the

Commissioners would be in touch before giving further consideration to the legislation.
Commissioner Bunting closed the legislative session.

The Commissioners met with Environmental Programs Director Bob Mitchell to schedule a public hearing on a Comprehensive Water and Sewerage Plan amendment application submitted by Sun Communities, LLC to expand the Mystic Harbour Sanitary Service Area (SSA) to add the existing Frontier Town Campground, to the SSA for sewer service. Mr. Mitchell advised that the property is located at 8428 Stephen Decatur Highway (MD Rt. 611) approximately one-quarter mile from its intersection with Assateague Road (MD Rt. 376) and more specifically identified on Tax Map 33 as Parcel 94 and is presently served by private water and sewer, so a connection would need to be constructed to connect the campground to the sewer collection system. Mr. Mitchell advised that the Planning Commission found the proposed amendments to be consistent with the County's Comprehensive Development Plan.

Upon a motion by Commissioner Mitrecic, the Commissioners unanimously agreed to schedule a public hearing on November 15, 2016 to receive public comment on the proposed amendments to the Worcester County Water and Sewerage Plan as requested.

Pursuant to the request of Recreation and Parks Director Paige Hurley and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized staff to develop an in-house improvement plan to enhance the Bishopville Park and to host a public meeting to invite feedback on that plan prior to presenting it to the Commissioners for their consideration at a future date. Mr. Hurley stated that this process would improve park functionality, aesthetics and sustainability, stand as an example of the County and citizens working together to develop an outstanding recreational outlet, and serve as a template for initiating improvements at other satellite parks throughout the County.

Upon nominations by Commissioner Church, the Commissioners unanimously reappointed Richard Collins, Reverend Guy Butler, Dr. William Greer, and Connie Wessels to the Adult Public Guardianship Board for additional three -year terms each expiring December 31, 2019.

Pursuant to the recommendation of County Attorney Maureen Howarth and upon a motion by Commissioner Bertino, the Commissioners voted 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 the motion, to authorize Commission President Bunting to sign the Asset Purchase Agreement between the County Commissioners of Worcester County, Maryland (Seller) and Gold Coast Beer and Wine (GCBW, Inc. - Purchaser), with GCBW to purchase \$272,728.36 worth of inventory in the Shore Spirits Retail Liquor Store at the Gold Coast Mall, with a 10% inventory markup for a total purchase price of \$300,000, subject to approval by the License Commissioners for a Class "A" beer/wine/liquor license for GCBW, Inc., with the application to be acknowledged by the County Commissioners as outlined in their October 4, 2016 meeting minutes.

The Commissioners recessed until 11:00 a.m.

The Commissioners conducted a public hearing on Rezoning Case No. 404, for an application submitted by Attorney Hugh Cropper, IV on behalf of Sun TRS Fort Whaley, LLC - Fort Whaley Campground, for an amendment to the Official Zoning Maps to rezone approximately 28 acres on the southerly side of US Rt. 50 and the easterly side of Dale Road at the junction of U.S. Rt. 50 and MD Rt. 610, and more specifically identified on Tax Map 18 as part of Parcel 20 in the Third Tax District of Worcester County, Maryland from C-2 General Commercial to A-2 Agricultural District. Staff members present at the hearing were Development Review and Permitting Director Ed Tudor and Deputy Director Phyllis Wimbrow. County Attorney Maureen Howarth informed the public of the procedures in rezoning cases. She then swore in those individuals who planned to give testimony during the hearing. Mr. Tudor reviewed the application. Ms. Wimbrow entered the Planning Commission's Findings of Fact into the record and stated that, according to the application for rezoning, the applicants' claim as the basis for their rezoning request was that there was a mistake in the existing zoning. She stated that the petitioned area has been zoned C-2 since the 2009 comprehensive rezoning of the County, with the remainder of Parcel 20 being zoned A-2. She stated that in the 1960s Parcel 20 in its entirety was zoned A-1 Agricultural, and the petitioned area was rezoned to B-2 General Business District by Rezoning Case No. 33 in 1971, with the remainder of the parcel retaining its A-1 classification then and during the 1992 Comprehensive Rezoning. Ms. Wimbrow stated that the petitioned area is identified within the Agricultural Land Use Category in the 2006 Comprehensive Plan and associated land use maps and pointed out that, with the exception of the property on the west side of Dale Road zoned C-2, all other adjacent and nearby properties to the south of U.S. Rt. 50 are zoned A-1, while sensitive areas along the Pocomoke River are zoned RP Resource Protection District, those directly abutting MD Rt. 610 to the north of U.S. Rt. 50 are zoned C-2, and other nearby properties are zoned A-1. Ms. Wimbrow advised that the Planning Commission found that there is a mistake in the existing zoning of the petitioned area, as the surrounding area is rural and agricultural in nature, and that it is classified by the Comprehensive Plan as being within the Agricultural Land Use Category. Furthermore, the Comprehensive Plan states that there is an overabundance of commercially-zoned land in the County. She also stated that the Planning Commission found that the commercial zoning classification is not needed on the petitioned area because the existing quasi-commercial uses are actually accessory uses allowed as amenities to the campground, and the A-2 zoning would permit what is essentially infill development by allowing the expansion of an existing campground, which would be an appropriate form of smart growth for the area. She concluded that, based on this review, the Planning Commission concluded that there was a mistake in the existing zoning of the petitioned area and a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan and therefore gave a favorable recommendation to Rezoning Case No. 404, seeking a rezoning of the petitioned area from C-2 General Commercial District to A-2 Agricultural District.

Commissioner Bunting opened the floor to receive public comment.

Mr. Cropper, attorney for the applicant, concurred with the Planning Commission and staff's assessment, advised that the basis for the proposed change in zoning from C-2 to A-2 is that there is a mistake in the existing zoning of the petitioned area, stated that B-2 zoning is inappropriate in this area, and asked the Commissioners to support the Planning Commission's Findings of Fact and recommendation for rezoning. He stated that the A-2 zoning allows for

infill development, which would permit the campground to expand from 210 to 300 campsites and to upgrade the water and wastewater systems.

In response to questions by Mr. Cropper, Land Planner and Landscape Architect Bob Hand stated that the current C-2 zoning is a mistake and expansion of the campground would constitute smart growth for infill development. He also stated that there are no public facilities serving the site, and if the campground is able to expand with additional campsites, the on-site system will likely be upgraded to a package plant. He also noted that the proposed rezoning is compatible with existing and anticipated development in the area and would have no impact on traffic.

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

In response to a question by Commissioner Elder, Mr. Tudor stated that staff had been advised not to recommend down zoning when developing the 2009 Comprehensive Rezoning, but felt that the petitioned area should have been down zoned at that time for agricultural use.

Upon a motion by Commissioner Church, the Commissioners unanimously adopted the Planning Commission's Findings of Fact and approved the rezoning based on a mistake in the existing zoning since the last comprehensive rezoning on November 3, 2009.

The Commissioners answered questions from the press, after which they adjourned to meet again on November 1, 2016.