

Minutes of the County Commissioners of Worcester County, Maryland

September 6, 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 Lockfaw, with Commissioner Church 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; Maureen Howarth, County Attorney; Kim Moses, Public Information Officer; and Stacey Norton, Human Resources Director. Topics discussed and actions taken included: hiring Carole Hankins as an Office Assistant IV for Public Works Administration, Bryan Furches as a Building Maintenance Mechanic III for the Maintenance Division, and Wayne Long as a Recycle Worker I and posting to fill a Landfill Operator I position for the Solid Waste Division of Public Works; hiring Karen Zeiler as a Communications Clerk I and Aimee Koester and Brandon Wormer as Communications Clerk Trainees for Emergency Services, Richard Mauk as a Deputy Fire Marshal Inspector for the Fire Marshal's Office, hiring Treka Cousar as an Office Assistant V within the Circuit Court; posting to fill vacancies for a Correctional Officer Trainee at the Jail, and an Assistant States's Attorney for the State's Attorney's Office; 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 August 16, 2016 open and closed session meetings as presented.

The Commissioners presented a proclamation recognizing September as Suicide Prevention Month to Health Department Planning, Quality and Core Services Director Jennifer LaMade and staff members Caroline Green, Brittany Lawton, Monica Martin, Olivia Holland, and Erin Wooten, along with Local Management Board Director Jessica Sexauer, and Jesse Klump Memorial Fund Founder Kim Klump and Treasurer Ron Pilling. Ms. LaMade invited the Commissioners and those in attendance at the meeting to participate in the annual Out of the

Darkness Walk to Prevent Suicide on Saturday, September 24, at Caroline Street and the Boardwalk in Ocean City. She advised that the purpose of the walk is to raise funds to support education and outreach programs designed to prevent suicide, increase public knowledge about depression, and provide support to those who have lost loved ones to suicide. To learn the warning signs and risk factors for suicide, please visit <http://worcesterhealth.org> and <http://choosetolivemaryland.org>.

The Commissioners presented a proclamation recognizing September 19-23, 2016 as Economic Development Week to Economic Development Director Merry Mears, Vince Gisriel of Sprout Creatives, and Ann McGinnis Hillyer of OceanCity.com to highlight the impact that start-up and expanding businesses have on the local economy. Ms. Mears stated that trendsetting businesses, like Sprout Creatives and OceanCity.com, attract additional startup businesses and spur economic growth. Commissioner Bertino praised Ms. Mears for her role in economic development throughout the County, stating that she has succeeded in assuring that Worcester County remains on the forefront of entrepreneurs' minds as an ideal location to open a new business, relocate an existing business, or expand a business already located in Worcester County.

The Commissioners conducted a public hearing on 10 petitions to sell agricultural easements to the Maryland Agricultural Land Preservation Foundation (MALPF) in FY17 and FY18 on properties in Worcester County. Also present at the meeting were Environmental Programs Director Bob Mitchell and Katherine Munson, Environmental Programs Planner IV. Mr. Mitchell reviewed the 10 properties, which are listed in their entirety in the Commissioners' meeting minutes of August 16, 2016. He stated that the applications have been reviewed by both the Worcester County Agricultural Land Preservation Advisory Board, which recommended submitting the top eight applications to MALPF for appraisal, and the Worcester County Planning Commission, which declared all 10 applications to be consistent with the 2006 County Comprehensive Plan. He further explained that FY17 funding is limited, so the MALPF Board has combined FY17 and FY18 into one funding cycle, and they will only accept up to the top eight applications. In response to a question by Commissioner Bunting, Ms. Munson stated that MALPF applicants can choose the family subdivision option, based on property density, making it possible to transfer ownership of up to three lots, based upon acreage of the property, to themselves or a child. She further advised that, while the larger Counties fought against amending the State application to limit applicants to a one-lot option, Worcester County is able to make modifications to the requirements for local MALPF applications beginning with the next funding cycle if the Commissioners wish to eliminate the family subdivision option. In response to a question by Commissioner Mitrecic, Ms. Munson stated that the County conducts two independent appraisals on properties being considered for MALPF easements, with the applicant to be offered a sale price based on the average of the two appraisals or the applicant's original petition, whichever is less.

Commissioner Bunting opened the floor to receive public comment.

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

Following some discussion and upon a motion by Commissioner Lockfaw, the Commissioners voted 4-2, with Commissioners Bunting and Elder voting in opposition, to

approved the recommendation of the Worcester County Agricultural Land Preservation Advisory Board, which recommended eight of the 10 applications be submitted to MALPF for appraisal and further consideration for purchase of agricultural easements.

Pursuant to the recommendation of Housing Program Administrator Jo Ellen Bynum and upon a motion by Commissioner Lockfaw, the Commissioners unanimously awarded the low bid for the rehabilitation of a single-family home in the Bishopville area to Allstate Renovation & New Homes, Inc. of Trappe, Maryland at a total cost of \$25,475.

Pursuant to the request of Economic Development Director Merry Mears and upon a motion by Commissioner Bertino, the Commissioners unanimously authorized the expenditure of \$4,895.86 within the Economic Development budget to cover the cost of a new sign at the Small Business and Technology Incubator in Pocomoke, and to accept the proposal from Selby Sign Co., Inc. of Pocomoke in the amount of \$4,895.86 to furnish and install the new sign, subject to minor contract modifications to be made by County Attorney Maureen Howarth. Ms. Mears advised that the Incubator is a public-private partnership that is located in the Pocomoke City Industrial Park and makes low-cost office space available to start-up companies to help them succeed during the early stages of development. She advised that the new sign will look more professional, will include the County Seal, and will have sections to list the names of up to six Incubator tenants.

Pursuant to the request of Ms. Mears and upon a motion by Commissioner Mitrecic, the Commissioners unanimously authorized Worcester County Economic Development to host the annual Economic Summit at the Ocean City Performing Arts Center in Ocean City in December 2016 and to use funds of \$4,750 within the Economic Development budget to secure the venue. Ms. Mears stated that renowned Economist Dr. Anirban Basu, of Sage Policy Group, will be the keynote speaker and will provide an update on the direction of the Worcester County economy. She further stated that, due to the success of prior events, private organizations have committed funding of \$5,150 to offset the total approximate event cost of \$9,900.

As approved at their August 16, 2016 meeting, pursuant to the recommendation of Finance Officer Phil Thompson at the request of Melanie A. Pursel, Executive Director of The Greater Ocean City, Maryland Chamber of Commerce, Inc. and upon a motion by Commissioner Mitrecic, the Commissioners unanimously adopted Resolution No. 16-21, authorizing a 100% County Tax Credit for Real Property owned by The Greater Ocean City, Maryland Chamber of Commerce, Inc. for the July 1, 2016 tax year. Mr. Thompson stated that the tax credit totaled \$12,885.45 for FY17.

Pursuant to the recommendation of Mr. Thompson at the request of James Purnell, Jr., President of the Berlin Community Improvement Association (BCIA), and upon a motion by Commissioner Purnell, the Commissioners unanimously adopted Resolution No. 16-22, authorizing a 100% County Tax Credit for Real and Tangible Personal Property owned by the BCIA for such property which was exclusively for non-profit activities of that association for the July 1, 2016 tax year. Mr. Thompson advised that the tax credit totaled \$3,344.18 for FY17.

The Commissioners met with Budget Accountant Kim Watts to review nine bids received for the eight available West Ocean City commercial boat slips. Pursuant to the recommendation of Ms. Watts and upon a motion by Commissioner Mitrecic, the Commissioners voted unanimously to award the eight lease agreements for two-year leases of the commercial boat slips at the West Ocean City Harbor, subject to proof of liability insurance, as follows: award of the three 100-foot slips to Jeffrey Eutsler for 'Tony & Jan' for \$10,004.00; H. Drexel Harrington for 'Tiki XIV' at \$9,502.00; and Sam Martin of FV Second Wind, LLC for 'Second Wind' at \$8,700.00; and award of the five 75-foot slips to Sam A. Martin of Edgar Seafood Products, Inc. for 'Atlantic Girl' at \$8,600; James Hahn, Stormy Seas, LLC for 'Allisa' at \$6,500; Earl R. "Sonny" Gwin, Jr. for 'Skilligalee' at \$5,800; Karl W. Otto fo 'O Sea Prowler' at \$5,200; and Chester V. Townsend for 'Andrew G' at \$5,000. In approving the bids, the Commissioners waived minor technicalities that included the following: the bid for 'Second Wind' was originally for a 75-foot slip, but Mr. Martin agreed to take the remaining 100-foot slip instead; and Mr. Hahn's bid was submitted on the license agreement rather than the bid form.

The Commissioners met with Environmental Programs Director Bob Mitchell to review proposed changes to the Code of Maryland Regulations (COMAR) regarding septic pre-treatment requirements outside the Critical Area. Mr. Mitchell stated that Governor Larry Hogan had announced his plans to remove the septic pretreatment requirements for systems outside the Chesapeake and Coastal Bays Critical Areas in his closing speech at the Maryland Association of Counties (MACo) conference in August 2016, as part of his commitment to review problematic regulations and in response to this specific requirement having been opposed by nearly every county in the State, during the hearings held by the Regulatory Reform Commission. He advised that Commission President Bunting had testified on behalf of the Worcester County Commissioners at these hearings. Mr. Mitchell stated that, specifically, the regulation changes include the following: defined that Best Available Technology (BAT) pretreatment is required for new construction in the Chesapeake and Coastal Bays Critical Areas only; removed the wording "new construction" in an impaired waterbody, as all but two small watersheds in Maryland are impaired, meaning the old regulation essentially covered all of Maryland; added "Critical Area" to the replacement system requirement, with all replacement systems in the Critical Area to have BAT, as outlined in the existing regulations; added 5,000+ gallons per day (gpd) systems, regardless of location, must have pretreatment; removed the requirement to make the local determination of an increase in flow for the existing residence on a renovation; counties may enact local laws to require BATs if they wish to do so; permit Minor Responsible Management Entity edits for counties that want to maintain the systems and issue permits for their operation; and a two-year maintenance and warranty was added. He further advised that late October or early November would be the earliest time frame in which the new regulations may become effective. Mr. Mitchell concluded that, if these regulations go into effect as written, the cost of new homes outside the County's Critical Areas will be reduced by \$13,000 to \$15,000 per home. He noted that, as the County does not permit major subdivisions to be served by septic, the grandfathering for the only major septic subdivision has expired. Thus, large systems and high strength wastewater systems still will need to provide treatment. Mr. Mitchell stated that the loadings to local waterways by septics are dwarfed by agricultural sources and are even exceeded by airborne sources. He further stated that the path forward for nutrient reductions for our septic

sector are sewer connections and pre-treatment upgrades to septic systems in the Critical Area as funds become available. In response to a question by Commissioner Bertino, Mr. Mitchell stated that the latest effective date for the new regulations could be 105 days from now, and he agreed to keep the Commissioners informed of any new developments or an effective date for the new regulations.

Pursuant to the request of Public Works Director John Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously awarded the low bid for the rehabilitation of Pump Station A in Ocean Pines to M2 Construction, LLC of Landisville, Pennsylvania at a total cost of \$415,000, with the understanding that an additional 60 days will be added to the contract for completion, for a total of 150 days to complete the work. Commissioner Bertino expressed concern that other contractors may have been able to bid on this project if they knew they had a total of 150 days to complete construction. In response, Mr. Tustin advised that the County was unlikely to meet the April 2017 project deadline if they rebid the project now. He pointed out that M2 Construction did a fantastic job rehabilitating Pump Station B, and he felt confident they would provide that same level of service for this project as well.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously awarded the bid for the provision and installation of an irrigation system at Eagles Landing Golf Course to Leibold Irrigation, Inc. of East Dubuque, Illinois at a total base bid price of \$1,750,400. In response to a question by Commissioner Elder, Mr. Tustin stated that the contractors who bid on this project are all national firms that install these types of systems all over the country. Mr. Tustin further explained that the low bidder, National Lawn Sprinklers, was not recommended by the design engineer due to their inexperience with GDC Control Systems, negative response from past clients, an unclear understanding of the proposed scope, and a lack of experience on similar golf course irrigation systems in the Mid-Atlantic.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved bid specifications to rehabilitate and recoat the Mystic Harbour Water Tower, with funds available in the 2015 Bond Issue to cover this expense.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Elder, the Commissioners unanimously awarded the best bid for the provision of two 2016 John Deere Model 6105E Cab Tractors at a total delivered price of \$55,590.25 per unit for a total cost of \$111,180.50 from Atlantic Tractor of Salisbury, Maryland. Mr. Tustin explained that the low bid from Binkley & Hurst did not meet specifications, as the tractors were red in color rather than yellow as specified, and painting them yellow exceeded the price offered by Atlantic Tractor.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously awarded the best bid for the purchase of four 2016 Rhino Model DB150 Offset Hydraulic Rotary Cutters at a cost per unit of \$9,968 for a total cost of \$39,872 from Binkley & Hurst of Seaford, Delaware. Mr. Tustin explained that the low bid from Hooper,

Inc. did not meet specifications for blade tip speed and appears to have a smaller stump pan and blades, which may affect performance.

The Commissioners conducted a public hearing to consider an application submitted by Longview Solar, LLC to approve a Step I Concept Plan for a utility scale solar energy system on a 285-acre property located on the southerly side of Libertytown Road (MD Rt. 374), approximately 0.4 mile east of Cedar Lane Road, and identified on Tax Map 24 as Parcel 5, Lot 5. Development Review and Permitting Director Ed Tudor reviewed the project and stated that the Longview Solar - Heron Project includes a proposed utility scale solar energy system consisting of approximately 85,670 panels anticipated to produce a 26-megawatt (DC) output. He further stated that the application received a favorable recommendation from the County Planning Commission.

Commissioner Bunting opened the floor to receive public comment.

Gary James of Berlin opposed the project. He also questioned whether the proposed project would have negative impacts, to include decreased assessment values, on his horse farm, impede the view from the second-floor window of the home on his daughter's property, and the view from a second undeveloped property that he owns, all of which are adjacent to the project site. He further questioned whether buffering requirements would adequately screen the project from neighboring views, and he asked where the electricity from the site would be sold. Mr. Tudor advised that this is a utility scale solar project, and the energy produced would be sold on the wholesale power market. County Attorney Maureen Howarth stated that the Maryland Public Service Commission approved this and a second Longview Solar project that will be considered following this hearing, so the County's role is limited to determining whether the developer has complied with local regulations.

Mr. James submitted a letter of opposition from D. Thomas Helms and Tanya Dawn Knott, who could not attend the hearing, expressing concern that the plan does not adequately protect adjacent homes from reflection and glare from the afternoon sun.

Donald Hawkins of Libertytown Road stated that he owns a horse ranch too and shares Mr. James' concerns about screening, but supports the project overall because he believes that an adequately-screened solar project is a good neighbor.

Barbara Holloway of Libertytown Road stated that it is unlikely the land will ever be used for agriculture, so she would much prefer having a solar project over a housing project as a neighbor.

Attorney Hugh Cropper, representing Longview Solar, stated that the Technical Review Committee and Planning Commission did a great job reviewing the project, and requested the Planning Commission's Findings of Fact be incorporated by reference and thanked the Commissioners for their kind consideration.

Consultant Dane Bauer reviewed plans to screen the project, plans that exceed the County's minimum screening requirements, using a variety of indigenous plantings that should grow to a maximum height of 18 feet and reach maturity within three to five years. He pointed out that it would not be feasible to grow taller trees because they would overshadow the solar panels and compromise the purpose of the project. In response to a question by Commissioner Bertino, Mr. Bauer stated that the plantings are guaranteed to survive, or they will be replaced. In response to a question by Commissioner Elder, Mr. Bauer stated that the solar panels will stand

six-and-a-half feet high, the fencing will stand to a height of seven-feet-eight-inches, and will consist of three to four rows of plantings on all sides of the property. Mr. Tudor stated that plans for this solar project include developing a 25-foot buffer on all sides of the property, which is significant. However, he stated that it is still likely that a neighbor would be able to see the project from a second-floor window.

Harold Scrimgeour of Stockton urged the Commissioners to require the developer to implement a traffic plan to address potential issues caused by the large number of trucks that will be needed to supply fill dirt for the project. Mr. Bauer advised that the existing entrance meets all standards and the site is balanced, so the project will require only minimal infill to shore up the entrance. He further stated that the State Highway Administration (SHA) has no concerns, and the applicant is not required to submit a traffic control plan for the project.

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

Upon a motion by Commissioner Mitrecic, the Commissioners voted unanimously to conceptually approve the proposed project and to adopt the Planning Commission's Findings of Fact.

The Commissioners conducted a public hearing to consider an application submitted by Longview Solar, LLC to approve a Step I Concept Plan for a utility scale solar energy system on a 258-acre property located on the northerly side of Public Landing Road (MD Rt. 365), across from the intersection with McCabes Corner Road, and identified on Tax Map 64 as Parcels 4, 71, and 72. Mr. Tudor advised that the Longview Solar - Seabeach Project includes a proposed utility scale solar energy system consisting of approximately 63,320 panels anticipated to produce an 18-megawatt (DC) output. He further stated that the application received a favorable recommendation from the County Planning Commission. He advised that all landscape buffer requirements that were raised at the State's public hearing have been addressed.

Commissioner Bunting opened the floor to receive public comment.

Charles Martin of Scotland Road questioned if the proposed project might impact his property by cutting off access to his property or possibly causing a fire due to glare from the panels. Mr. Cropper stated that he is Mr. Martin's neighbor and assured Mr. Martin that the project would not encroach on any of their properties, and specifically, it would not impede access to Mr. Martin's property. Mr. Bauer advised that national standards disallow the use of any type of glare from solar panels because of the impact such materials have on low-flying planes. He stated that the purpose of a solar panel is to absorb sunlight, so the materials used on these types of project utilize non-glare coatings that maximize absorption.

Matthew Morton of Public Landing Road stated that he does not oppose the project, but that he would like the opportunity to meet with staff at a later time to address his questions.

Mr. Cropper requested that the Planning Commission's Findings of Fact be incorporated by reference and thanked the Commissioners for their kind consideration.

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

Upon a motion by Commissioner Purnell, the Commissioners voted unanimously to conceptually approve the proposed project and accept the Planning Commission's Findings of Fact.

The Commissioners recessed for five minutes.

Upon reconvening, pursuant to the request of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously awarded the best bid for the purchase of one 2016 Vermeer Model BC1000XL Brush Chipper to Vermeer Mid Atlantic, Inc. of Annapolis Junction, Maryland at a total cost of \$33,432. Mr. Tustin explained that the low bid from Iron Source LLC did not meet specifications, as the vendor proposed a gasoline engine rather than a diesel engine as required.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Elder, the Commissioners unanimously approved bid specifications for the replacement of overhead doors for the storage building at the Roads Division of Public Works, with funds of \$61,110 available within the FY17 budget for this expense. Mr. Tustin explained that there are a total of nine doors, and the department plans to replace as many as they can with the available funds.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously approved bid specifications to replace the Colona Road culvert pipe, and conceptually approved the transfer and encumbrance of funds totaling \$154,623 within various accounts in the Roads Division of Public Works, including Maintenance Materials Blacktop for Overlay Account (\$22,401), Vehicle Fuel Account (\$90,654), and State Highway Administration (SHA) Grant Funds Account (\$33,753) to be transferred to the Special Roads Account, which has a balance of \$7,815, for an encumbered total of \$154,623 for the project.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Lockfaw, the Commissioners unanimously waived the standard bid requirement and awarded the proposal from the County's current security system vendor, Absolute Security Group, Inc. of Salisbury, Maryland, to install fire and burglar alarm systems at a total cost of \$10,991.86 in the County-owned property on Bank Street in Snow Hill. In response to a question by Commissioner Bertino, Mr. Tustin explained that Absolute Security provides systems at 32 of the 33 County buildings and provides the monthly monitoring, which is more efficient than contracting with multiple companies.

The Commissioners reviewed and discussed various board appointments.

Upon a nomination by Commissioner Bunting, the Commissioners unanimously agreed to reappoint Walter Maizel to the Lower Shore Workforce Investment Board for a four-year term expiring September 30, 2020.

Pursuant to the request of Assistant Chief Administrative Officer Kelly Shannahan and upon a motion by Commissioner Mitrecic, the Commissioners unanimously approved the Request for Proposals (RFP) to sublease the Shore Spirits Retail Liquor Store located at 16th Street in Ocean City. In response to a question by Commissioner Bertino, Mr. Shannahan advised that the RFP includes a requirement to purchase the store's inventory and to assume lease payments through February 28, 2024.

Emergency Services Director Fred Webster presented the Commissioners with the draft Worcester County Emergency Operations Plan, which will be reviewed and discussed at a work

session during the Commissioners' meeting on October 4, 2016. Commissioner Bertino thanked Mr. Webster and County staff for their handling of emergency conditions caused by Tropical Storm Hermine over the weekend. Commissioner Bunting concurred, noting that the County team worked well together, and he considered their cooperation with other agencies throughout the event to be remarkable.

The Commissioners answered questions from the press, after which they adjourned to meet again on September 20, 2016.