

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

January 18, 2022

Joseph M. Mitrecic, President  
Theodore J. Elder, Vice President  
Anthony W. Bertino, Jr.  
Madison J. Bunting, Jr.  
James C. Church (absent)  
Joshua C. Nordstrom  
Diana Purnell

Following a motion by Commissioner Nordstrom, seconded by Commissioner Bertino, 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 (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 Weston Young, Deputy Chief Administrative Officer Joe Parker, County Attorney Roscoe Leslie, Public Information Officer Kim Moses, and Human Resources Director Stacey Norton. Topics discussed and actions taken included the following: hiring Sara Bradley-Parker as an emergency communications specialist trainee and Lindsay Edwards as an emergency communications specialist I within Emergency Services, and Dylan Deshong as a plant operator trainee within the Water and Wastewater Division of Public Works; promoting Deputy Fire Marshal Investigator I Richard "Hunter" Mauk to deputy fire marshal investigator II; transferring Grounds Worker II John Northeimer to parks worker III within Recreation and Parks, and certain personnel matters; receiving legal advice from counsel; and performing administrative functions, including receiving FY22 monthly financial update, and discussing potential board appointments.

Following a motion by Commissioner Nordstrom, seconded by Commissioner Bertino, the commissioners unanimously voted to adjourn their closed session at 9:41 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 George Patterson of Ocean City 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 January 11, 2022 meeting as presented.

The commissioners presented a commendation to Stephen Decatur High School senior Noah Fisher for winning the Maryland 2A State Tennis Championship title in June 2021.

The commissioners presented a retirement commendation to Doctors Mary and Paul Fleury for providing outstanding healthcare to residents and visitors of Pocomoke City for the

past 41 years.

Upon a motion by Commissioner Bertino, the commissioners unanimously approved, as a consent agenda, item numbers 2-3 and 5-11 as follows: approving the sole-source purchase of eleven membrane modules and O-ring seals for the Mystic Harbour Wastewater Treatment Plant from Suez at a total cost of \$25,337.85; awarding the sole proposal for implementing the Peer Expansion in Opioid Treatment Programs project to Open Arms and Hearts Health Services, LLC; proceeding with Maryland 911 Board Projects, including #22-106 of \$28,759.90 for the 911 Center Logging Recorder Service with Exacom, #22-153 of \$2,595 for pre-employment screening software from Criticall, #22-175 of \$1,034 for initial national protocol certification for trainees, #22-176 of \$598 for Telecommunicator Core Competencies training, #22-148 of \$1,353 for 911 public educational materials, #22-174 of \$90 for two Emergency Telecommunicator Certification training manuals, and #22-177 of \$120 for the recertification of certain protocols for one new employee.

The commissioners met with Emergency Services Director Bill Birch to discuss a proposal from L3Harris at a cost of \$340,688.55 to provide materials, program management, engineering services, FCC licensing, tropospheric testing, installation, retuning, and radio system testing for the 800 MHz P25 Radio System migration project. Emergency Services Deputy Director James Hamilton introduced Electronic Service Specialist III - Infrastructure Technician Guy Sterling. He then reviewed the history and anticipated scope of the project.

In response to questions regarding project timelines by Commissioner Bertino, Mr. Hamilton advised that the regulatory process should take roughly 60-90 days, with the project to follow in two phases that will be conducted apart from the summer season to minimize disruptions, and he estimated that the project should be complete by winter 2022. He then explained that migrating from six of the eight existing channels, which have previously been impacted by tropospheric interference, to six new channels, which County research has shown to be far less impacted, should result in a substantial improvement to local emergency communications. Following some discussion and upon a motion by Commissioner Nordstrom, the commissioners unanimously accepted the proposal from L3Harris as presented.

The commissioners met with Sheriff Matthew Crisafulli, Sergeant Chris Larmore, State's Attorney Kris Heiser, and Axon Account Executive Stephanie Sapp and Vice President Sam DeBurra to review a proposal from Axon, the body worn camera vendor for all allied County law enforcement agencies, to address the unfunded State mandate requiring all law enforcement agencies to adopt policies and procedures for the use of body-worn cameras for certain police officers while on duty. The total estimated cost for body-worn cameras and fleet cameras is \$2,024,647.22, to be paid over five-years. Sergeant Larmore explained that the quoted cost is good through July 30, 2022. Ms. Sapp gave a presentation on the body-worn camera and Fleet III systems, which included the technology (including hardware and software management to bring the evidence to prosecutors) and functionality of these systems; system interface and compatibility; evidence, data storage, and retention; implementation; and projected expenditures.

Commissioner Bertino stated that the whole purpose of the body-worn and in-car cameras is to protect law enforcement officers and maintain a true account of each incident. In response to questions from Commissioner Bertino regarding video recording, storage, and accessibility,

Sergeant Larmore advised that the Axon technology will meet all the needs of the Sheriff's Office to maintain a true and accurate account of events as they unfold. He then reviewed the recording process and explained that all videos will be stored and encrypted. Ms. Sapp advised that, regardless of whether a particular agency redacts information on any of the videos to meet certain public information act requests, Axon will maintain original, unaltered copies of all evidence, and those items will remain available if needed. Mr. DeBurra then reviewed legal aspects regarding cyber security. In response to concerns raised by Commissioner Purnell, Mr. DeBurra and Ms. Heiser reviewed redaction procedures and protocols. Ms. Heiser confirmed that deputies will not have authorization to redact any materials. In response to questions by Commissioner Elder, Sergeant Larmore stated that sensors will activate the cameras in certain instances, regardless of whether a law enforcement officer has already turned the camera off. For example, he explained that when a police officer draws a gun, a sensor will then activate the body-worn camera to resume recording. In response to further questions by Commissioner Bertino, Mr. DeBurra advised that, once Axon received a signed contract from the County, they would deliver the body-worn cameras within four to six weeks and the fleet systems within six to nine months, with Axon representatives to come on-site to provide training on both products.

In response to questions by Chief Administrative Officer Weston Young, Mr. DeBurra advised that Axon re-evaluates pricing every year, and standard product inflation rates typically fluctuate between five to seven percent annually; however, rates have inflated by roughly 10 percent this year. Following some discussion, the commissioners thanked Ms. Sapp and Mr. DeBurra for meeting with them.

The commissioners met in legislative session.

The commissioners conducted a public hearing on Bill 21-9 (Taxation and Revenue – Hotel Rental Tax), which was introduced by Commissioners Bertino, Bunting, Church, Mitrecic, Nordstrom, and Purnell on December 7, 2021. This bill includes minor amendments to increase room tax collection from third-party hosting platforms, such as AirBNB, VRBO and others, to dovetail the Town of Ocean City's code to increase tax revenues that are currently uncollected.

Commissioner Mitrecic opened the floor to receive public comments.

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

Upon a motion by Commissioner Bertino, the commissioners unanimously adopted Bill 21-9 (Taxation and Revenue – Hotel Rental Tax) as presented.

The commissioners conducted a public hearing to receive public comment on an application submitted by Attorney Hugh Cropper on behalf of Ayres Creek Family Farm, LLC to reclassify 8.34 acres of land located at 8219 Stephen Decatur Highway, on the westerly side of MD Rt. 611, east of Ayres Creek, and identified on Tax Map 33 as Parcel 80, Lot 1, from Resource Conservation Area (RCA) to Limited Development Area (LDA). Environmental Programs Director Bob Mitchell reviewed the application, stated that the applicant alleges that an error occurred in the original district mapping, and advised that the Planning Commission granted the application a favorable recommendation. He noted that this request is not a growth allocation request, does not qualify for a growth allocation because Lot 1 does not have adjacency to LDA or Intensely Developed Area (IDA) parcels/lots, and, if granted, the LDA acreage will be deducted from the County's available growth allocation acreage.

Commissioner Mitrecic opened the floor to receive public comments.

Mr. Cropper requested the property be reclassified based on a mistake at the time of initial mapping in 2002. He stated that the property should have been designated as LDA when the Critical Area maps were first created because the property and area within that Critical Area included a clubhouse (with a liquor license) that serviced the adjacent golf course. He noted that, while the golf course was a permitted use in the RCA, the principal buildings and structures were not. Therefore, the property could even be considered an IDA.

Chris McCabe, former natural resources administrator and owner of Coastal Compliance Solutions, LLC, stated that Lot 1 was mistakenly designated RCA, when it should have been designated LDA due to the existing principal buildings, including the clubhouse, parking lot, and restaurant. Therefore, a reclassification should be granted to correct this mapping mistake and bring the property into compliance. In response to questions by Commissioner Bunting, Mr. Mitchel stated that the property owner is able to renovate the existing structures, but would not be permitted to increase the density on the property.

Diane Stelzner of South Point disagreed that an error was made in the mapping of the subject property and urged the commissioners to deny the request. She advised that the LDA designation would ease development restrictions and make it possible to develop up to 36 units on said property if rezoned. In response to questions by Commissioner Bunting, Mr. Mitchell stated that the property is not in a sewer area and is not appropriately zoned to permit an increase in density.

Steve Katsanos of South Point expressed concern that Ayres Creek Family Farm is listed as a developer and questioned his intentions for the land in the future. He further advised that the structures on the property were in use in 2002; therefore, they were grandfathered for limited use by a natural resources organization after golf course operations ceased.

Jan Amchack of South Point advised that she does not support or oppose the proposed reclassification; however, she does oppose the use of the term “mistake” in zoning, as golf courses, which would include a clubhouse, are permitted uses in an RCA. She also

Mr. Cropper offered rebuttal, noting that the clubhouse was a legally existing operation in 2002 and should be excluded from the RCA.

In response to questions by Commissioners Bertino and Elder, Mr. Mitchell confirmed that the requested reclassification would only impact the one lot, not the whole 90 acres, and the property cannot be approved for septic, as the property will not perk. He further advised that the property is zoned for agricultural use, so it is not eligible to receive sewer service from the Mystic Harbour Sanitary Service Area.

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

Following some discussion and upon a motion by Commissioner Nordstrom, the commissioners voted 4-2, with Commissioners Bunting and Mitrecic voting in opposition, to table any action on the requested reclassification until February 1, 2022 to provide them with adequate time to review and consider additional information presented during the hearing.

Commissioner Mitrecic closed the legislative session.

The commissioners recessed for 10 minutes.

The commissioners conducted a public hearing to receive public comment on a proposed application filed by Pocomoke City Manager Jeremy Mason to amend the Water and Sewerage

Plan to expand the sewer planning area of the Town of Pocomoke City to serve the Royal Farms, which is located on a single property at 2497 Lankford Highway in New Church, Virginia. Mr. Mitchell reviewed the text amendment, which would allow for the abandonment and connection of the existing failed septic system to the existing restricted-access line that abuts the property and connects the Welcome Center in Virginia to the Pocomoke City Wastewater Treatment Plant (WWTP). He then entered into evidence letters from the Maryland Department of Planning, acknowledging that the draft amendment is intended to abate a public health hazard, making typical planning not appropriate, and the Maryland Department of the Environment, supporting addressing the public health issue by connecting the property to the Pocomoke City WWTP. Mr. Mitchell stated that the proposed amendment would not allow Virginia properties, other than the Visitor's Center and Royal Farms, to tie into the sewer line, and he concluded that the Planning Commission found the proposed amendment to be consistent with the Comprehensive Plan.

Commissioner Bertino advised that the commissioners were misdirected with regard to the timeline of events in which, ultimately, the Town of Pocomoke City authorized Royal Farms to hook up to sewer line to receive service from the Pocomoke City WWTP, and he was deeply concerned with the town's egregious disregard for protocol. Commissioner Bunting concurred, noting that it was wrong for the town to allow Royal Farms to hook up to this denied-access line, as conditioned in the original agreement between the County and the State of Virginia when extending sewer to the welcome center. In response to concerns raised by Commissioners Bertino and Bunting, Mr. Mitchell stated that the Town of Pocomoke failed to go through the proper channels to seek approval from the County prior to authorizing Royal Farms to tie into the Pocomoke City WWTP, and to date no County permits have been issued for this project. However, he noted that the prior amendment (between the Commonwealth of Virginia and Worcester County) was based upon a denied access line to serve the visitor's center, and this amendment seeks to add another connection to that line. He explained that there could be denied access lines with multiple connections.

Commissioner Mitrecic opened the floor to receive public comments.

Mr. Mason reviewed the timeline of events and apologized for having originally circumvented the County process. He explained that he did not originally understand the process for extending sewer to Royal Farms. He stated that once he understood the process he stopped the connection. Commissioner Bertino stated his willingness to take Mr. Mason at his word, but questioned to towns failure to submit to the County certain letters, which outline the process of events and equate to a contract between the town and Royal Farms. Commissioner Elder agreed, noting that the town attorney should have understood the process involved in amending the County's Water and Sewerage Plan.

Commissioner Nordstrom acknowledged that some missteps occurred; however, those errors were done unintentionally rather than in an effort to circumvent the process. He stated that he is willing to forgive this mea culpa and focus on the need to correct an environmental issue being caused by a failing septic system in the Pocomoke watershed. He further advised that this store, though located in Virginia, serves those residing in the southern end of Worcester County. He noted that Royal Farms, which is currently pumping and hauling sewage for treatment at the Pocomoke City WWTP, is requesting to purchase nine of the WWTP's 2,400 available equivalent dwelling units (EDUs), and this organization's contribution would generate the additional revenue needed to fund vital plant upgrades.

In response to questions by Commissioner Mitrecic, Mr. Mason advised that he recently

denied a request from Dixieland in New Church, Virginia to hook into the restricted access line, and approval for Royal Farms to tie in had been predicated upon the owner's willingness to give the town money to fund a new aeration system. However, he reiterated that he was unaware of the protocol for extending sewer outside of the sewer planning area for the town at the time he allowed Royal Farms to hook up to the line.

Commissioner Purnell stated that anyone could have made the same mistake that Mr. Mason has admitted to making, but that it was in the best interests of the town to approve the amendment before them today.

Pocomoke City Mayor Susan Harrison validated the concerns raised by the commissioners, but noted that Mr. Mason is a hardworking individual of great integrity whose biggest fault occurred due to his efforts to do what is right to help the community. She discussed the need for this project to protect the environment and help support improvements at the WWTP, and she urged the commissioners to approve the amendment.

John Kemp, president and CEO of Royal Farms, advised that there was no malfeasance on the part of the company, which operates 250 stores in Maryland. Three of those stores are operating in Worcester County, and a fourth is scheduled to open soon in Ocean Pines. He noted that the New Church store sits just over the Maryland line, that the existing septic system failed in 2012, underwent a \$200,000-upgrade, but failed again in 2019. So, when his organization learned about the sewer line running right past their property, they requested and received authorization to hook up. He concluded that Royal Farms is a good partner to the County, employs 42 county residents, and pays \$150,000 annually in property taxes to Worcester County. He concluded that a mistake had been made, he apologize for that mistake, and he urged the commissioners to adopt the amendment before them as presented.

Randy Beamer of Royal Farms advised that his organization is very active in the Worcester County community, pays its share of taxes, and stated that this request is an opportunity for the commissioners to help out a neighbor.

John Pica of Royal Farms stated that his organization signed a contract to tie into the restricted access line in good faith and strongly urged the commissioners to adopt the amendment before them today to resolve this public health issue.

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

Following much discussion, a motion by Commissioner Nordstrom to approve the amendment to the Water and Sewerage Plan to expand the sewer planning area for the Town of Pocomoke City failed 3-3, with Commissioners Mitrecic, Nordstrom, and Purnell voting in favor and Commissioners Bertino, Bunting, and Elder voting in opposition.

Pursuant to the request of Tourism and Economic Development Director Melanie Pursel and upon a motion by Commissioner Bertino, the commissioners voted 5-1, with Commissioner Elder voting in opposition, to approve the 10-year lease agreement between Dynamic Development, LLC (landlord) and the County Commissioners (tenant) for a 5,200-square-foot building, with an additional 2,600-square feet of climate and moisture-controlled basement storage space, located at 107 West Green Street in Snow Hill at a cost of \$38,800 annually (with incremental increases) to house the Office of Tourism and Economic Development.

Ms. Pursel thanked the commissioners for this opportunity, noting that the existing building is aged, and it would cost at least \$540,000 to address the necessary repairs.

Environmental Programs Director Bob Mitchell met with the Commissioners to recommend providing FY22 Maryland Agricultural Land Preservation Foundation (MALPF) matching funds of \$140,000, which represent an estimate of Agricultural Land Transfer Tax (ALTT), along with another \$48,459 remaining in previously approved encumbrances from a cash match in FY20, for the purchase of up to eight easements in this planning cycle. Mr. Mitchell advised that Worcester County's certification entitles the County to retain 75% instead of 33% of the ALTT.

Following some discussion and upon a motion by Commissioner Nordstrom, the Commissioners voted 5-1, with Commissioner Elder voting in opposition, to approve local matching funds totaling \$188,459 for the FY22 Maryland Agricultural Land Preservation Foundation Program.

Deputy Chief Administrative Officer Joe Parker advised that the County had received a request to adopt a resolution supporting the efforts of Anne Arundel County and Queen Anne's County for resources to be allocated to fund the Tier 2 Chesapeake Bay Crossing Study to replace the aged, two-span Chesapeake Bay Bridge with a single, eight-lane bridge in the same location to adequately address congestion and safety concerns impacting these two counties.

Commissioner Bunting stated that he could not support the request to expand the lanes on the Chesapeake Bay Bridge until safety and congestion issues on MD Rt. 90 and U.S. Rt. 50 can be addressed. Commissioner Bertino agreed.

Following some discussion and upon a motion by Commissioner Bunting, the commissioners unanimously voted to deny the request. Upon a subsequent motion by Commissioner Bertino, the commissioners agreed to send a letter to affiliate counties along U.S. Rt. 50 requesting their support to replace the Chesapeake Bay Bridge be made contingent upon approval by the State to proceed with upgrades to the U.S. Rt. 50 corridor in and around the Harry W. Kelly Memorial Bridge and dualize MD Rt. 90, which runs from U.S. Rt. 50 to Coastal Highway.

The commissioners met with County Attorney Roscoe Leslie to address grandfathering un-sprinkled manufactured homes that have been installed since the State fire marshal issued an interpretation that manufactured homes used as dwelling units, as defined in COMAR. Mr. Leslie stated that grandfathering is not possible because the building code is a State law, and the County does not have the power to modify the building code to lessen the sprinkler requirement. Furthermore, grandfathering could expose the County to lawsuits for potential injuries and deaths arising from fires in un-sprinkled units. In response to comments by Commissioner Mitrecic, Mr. Leslie stated that the County could choose not to enforce the State law requiring sprinklers in manufactured homes, as they could make the argument that it is not feasible to enforce every law. He pointed out that the law only affects homes manufactured after 2015 or homes built before 2015 that are moved elsewhere in the County. In response to questions by Commissioner Nordstrom, Mr. Leslie stated that the County is acting in a manner that is consistent with the opinion issued by the State fire marshal.

Jimmy Latchum, owner of Riverview Trailer Park, stated that manufactured homes are affordable housing, and individuals purchasing these homes cannot afford the roughly \$20,000 cost to install sprinklers.

Jay Berge stated that the State fire marshal has concluded that sprinklers are not required

in these simple structures, which are equipped with smoke detectors. Therefore, he stated that opting not to require sprinklers in these structures makes the most sense. Following some discussion and upon a motion by Commissioner Elder, the commissioners voted 4-2, with Commissioners Bunting and Mitrecic voting in opposition, to continue to adhere to the opinion of the State fire marshal until an official opinion on the matter is issued by the Attorney General's Office (AG), and to continue requiring those involved in the permitting process for manufactured homes to sign a waiver acknowledging that, if they choose not to install fire sprinklers and the AG's Office finds that automatic fire systems are required in manufactured homes, they will be required to retrofit their homes at their own expense.

The Commissioners reviewed and discussed various board appointments.

Upon a nomination by Commissioner Bunting, the commissioners unanimously agreed to reappoint John Collins, Jr. to the Water and Sewer Advisory Council for Ocean Pines and to appoint Will Gabler to the Recreation Advisory Board, and on behalf of Commissioner Mitrecic to reappoint Michael Patchet to the Board of Electrical Examiners.

Upon a nomination by Commissioner Elder, the commissioners unanimously appointed Kerry Ann Bunting to the Tourism Advisory Board.

Upon a nomination by Commissioner Purnell, the commissioners unanimously agreed to appoint Lisa Boyd to the Board of Zoning Appeals.

The commissioners answered questions from the press, after which they adjourned to meet again on February 3, 2022.