

Minutes of the County Commissioners of Worcester County, Maryland

November 7, 2023

Anthony W. Bertino, Jr., president
Madison J. Bunting, Jr., vice president
Caryn G. Abbott
Theodore J. Elder
Eric J. Fiori
Joseph M. Mitrecic
Diana Purnell

Following a motion by Commissioner Abbott, seconded by Commissioner Mitrecic, 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, County Attorney Roscoe Leslie, Public Information Officer Kim Moses, Human Resources Director Stacey Norton, and Human Resources Deputy Director Pat Walls. Topics discussed and actions taken included the following: a personnel update, hiring Drake Foxwell as a grounds worker II within Recreation and Parks, Tara-Lee Thomas as an emergency communications specialist trainee within Emergency Services, and LuQuesha Brittingham and Lawrence Johnson as correctional officers within the County Jail; considering a salary-related grant within the State's Attorney's Office; receiving legal advice from counsel; and performing administrative functions, including discussing board appointments.

Following a motion by Commissioner Abbott, seconded by Commissioner Mitrecic, the commissioners unanimously voted to adjourn their closed session at 9:43 a.m.

After the closed session, the commissioners reconvened in open session. Commissioner Bertino called the meeting to order, and following a morning prayer by Father John Solomon of St. Mary Star of the Sea and pledge of allegiance, announced the topics discussed during the morning closed session.

The commissioners reviewed and approved the minutes of their October 17, 2023 open and closed session minutes as amended.

The commissioners presented a proclamation recognizing November 13-17, 2023 as American Education Week to Worcester County Teachers Association President Beth Shockley Lynch and Board of Education (BOE) Chief Financial Officer Vince Tolbert.

The commissioners presented a proclamation to Worcester County Department of Social Services staff recognizing November as National Adoption Month to raise awareness of County youth in foster care who need stable homes and to honor those who have dedicated their lives to serving these children.

In a related matter, the commissioners also presented a commendation to Dustin and Lauren Walker for being named the 2023 Worcester County Adoptive Parents of the Year by DSS. Mr. Walker accepted the commendation on behalf of the couple. His wife was not at the meeting.

Upon a motion by Commissioner Fiori, the commissioners unanimously approved by consent agenda item numbers 2-8 as follows: an FY24 Maryland Tourism Development Board Marketing Grant of \$102,511; Byrne Justice Assistance Grant for the Sheriff's Tactical Armed Response Team of \$99,981; Finding of Fact for Rezoning Case No. 444, Black Water Relics, LLC; a contract with Zylem for the Isle of Wight Bay force main evaluation; Housing Rehab Subordination Agreement for the Vonzella Turner family; scheduling a public hearing for the FY25-FY29 Capital Improvement Plan; and adopting the commissioners' 2024 meeting schedule and FY25 budget schedule.

In response to a question by Commissioner Bertino, Chief Administrative Officer Weston Young confirmed that the draft CIP will be revised with updated Buckingham Elementary School replacement costs.

The commissioners met with Dr. Deborah Casey, the new Wor-Wic Community College president, who introduced herself and discussed upcoming college initiatives designed to promote workforce development. In response to concerns by Commissioner Mitrecic that individuals entering the paramedics program are required to take courses they do not need or want to become licensed paramedics, Dr. Casey stated that she will look into the requirements. Following some discussion, the commissioners thanked Dr. Casey for meeting with them.

Pursuant to the request of the Stockton Volunteer Fire Company (SVFC) and upon a motion by Commissioner Mitrecic, the commissioners unanimously agreed to send a letter authorizing the SVFC to apply for a Waterway Improvement Grant, with a 50/50 State and SVFC funding matches of \$73,177, to construct marine facilities and acquire vessels for marine firefighting, police/medical services, and communication equipment for promoting safety of life and property and general service to the boating public utilizing the water of the State of Maryland.

Pursuant to the request of State's Attorney Kris Heiser and upon a motion by Commissioner Mitrecic, the commissioners unanimously authorized the acceptance of \$102,200 in Maryland Criminal Intelligence Network grant funds to the State's Attorney's Office (SAO).

Environmental Programs Director Bob Mitchell presented a request from representatives of WGC EDU, LLC, Coastal Square, LLC (Coastal), and West Ocean City, LLC (WOC) to enter into wastewater purchase agreements, with Coastal to acquire all remaining wastewater capacity of the Riddle Farm Wastewater Treatment Plant (WWTP) and WOC to acquire 12 equivalent dwelling units. Following the presentation, the commissioners took no action.

Pursuant to the request of Public Works Director Dallas Baker and upon a motion by Commissioner Elder, the commissioners unanimously authorized staff to proceed with the preliminary paperwork for a grant (\$2.2 million) and loan (\$2.2 million) from the Maryland

Department of the Environment for the design and construction of the Mystic Harbour WWTP solids handling project.

Pursuant to the request of Mr. Baker and upon a motion by Commissioner Purnell, the commissioners unanimously approved lowering speed limits on several residential roads in the vicinity of Ocean City Elementary School that have no sidewalks and little to no shoulders for pedestrians and bicyclists.

Pursuant to the request of Procurement Officer Nick Rice and upon a motion by Commissioner Elder, the commissioners voted 6-1, with Commissioner Mitrecic voting in opposition, to accept the low bid of \$340,500 from Cianelli Construction, Inc. for phases 1 and 2 of the South Point bulkhead replacement project.

Chief Administrative Officer Weston Young advised the commissioners that the U.S. Army Corps of Engineers (COE) is soliciting public comments regarding the construction of a wind farm off the coast of Ocean City through December 5, 2023. He stated that comments are meant to help the COE evaluate the impacts of this proposed activity and whether to issue a permit for the proposal. Commissioner Mitrecic stated that a similar project in Delaware was cancelled, and the cost of wind farm projects has increased so dramatically that these companies are now looking at getting more money from the government, so taxpayers will end up footing the bill for them. He stated that the proposed project off the coast of Ocean City will not only be detrimental to the look of the ocean, but it will also be detrimental to the fishing industry and other marine activities. He concluded that, in the long run, this project is going to cost the people of Worcester County and the State of Maryland a tremendous amount of money. Commissioner Abbott stated that there seems to be a misperception among some in the public that the commissioners support this project, so she clarified that the commissioners do not support this project. Commissioner Elder concurred, noting that this project would be detrimental to the environment, and that economically and esthetically it is a loser.

Following some discussion and upon a motion by Commissioner Mitrecic, the commissioners unanimously agreed to submit written comments to the COE opposing the offshore wind farm project.

The commissioners reviewed and discussed various board appointments.

Upon a nomination by Commissioner Elder, the commissioners unanimously agreed to appoint Commissioner Purnell to serve as treasurer on the Tri-County Council (TCC) for the Lower Eastern Shore of Maryland Executive Board.

Upon a nomination by Commissioner Abbott, the commissioners unanimously agreed to appoint Commissioner Mitrecic to serve as vice chair of the TCC.

Upon a nomination by Commissioner Purnell, the commissioners unanimously agreed to appoint Commissioners Abbott, Elder, Fiori, Mitrecic, and Purnell as voting members of the TCC.

Upon a nomination by Commissioner Purnell, the commissioners unanimously agreed to appoint Commissioner Bertino to serve as the primary and Commissioner Bunting to serve as the alternate representative on the Maryland Association of Counties (MACo) Legislative Committee.

Upon a nomination by Commissioner Elder, the commissioners unanimously agreed to appoint Margaret Labesky to the Social Services Board and Mike Mitchell to the Solid Waste Advisory Board¹.

The commissioners conducted a public hearing on Rezoning Case No. 442, which was filed by Hugh Cropper, IV on behalf of Pin Oak Properties, LLC, property owner, and amended to include Robert, B. Riccio, Jr., property owner, for an amendment to the Official Zoning Maps to change approximately 6.46 acres of land located on the east side of U.S. Rt. 113 on Pin Oak Drive, and more specifically identified on Tax Map 20 as Parcel 290, Lots 1, 3, 5, and 6, from C-1 Neighborhood Commercial District to C-2 General Commercial District. County Attorney Roscoe Leslie swore in those individuals who planned to give testimony during the hearing. Development Review and Permitting (DRP) Deputy Director Matthew Laick reviewed the application, which received a favorable recommendation from the Planning Commission. He then 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. He then entered the Planning Commission's Findings of Fact into the record.

Commissioner Bertino opened the floor to receive public comment.

Mr. Cropper concurred with the Planning Commission's findings and asked the commissioners to accept the findings as his testimony as well. He then reviewed the former industrial uses on the site, zoning, and consolidation history of the property. He concluded that the C-1 zoning, which is meant for businesses that serve the community, created a non-conformity due to the existence of the 8,000-square-foot structure on the property, which is used for contractor shops and which are not a permitted use in this zoning district. He argued that the petitioned area would be more consistent with the permitted uses and special exceptions contained in the C-2 District, noting that the property has no frontage on U.S. Rt. 113, and its location is not suitable for people to stop in and buy things.

Property owner Paul Sens stated that he did not question the zoning during the 2006 purchase, as the 8,000-square-foot facility had been in use as an industrial site at that time. He noted that the property has no visibility to the highway, no public water or sewer, and is located directly across from the Worcester County Public Works facility. He advised that, if the rezoning is granted, he plans to improve the property and expand the existing uses.

Brian Zollinger, a landscape architect, agreed that it had been a mistake to downzone the property to C-1, which created a non-conformity. He stated that, if rezoned to C-2, the property owner will be able to fix up the property and develop a reasonable commercial site plan to expand.

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

In response to a question by Commissioner Bertino, Mr. Cropper advised that his client seeks to expand to add additional contractor shops and storage. DRP Director Jennifer Keener stated that the existing use is allowed, but it is non-compliant.

Commissioner Fiori stated that multiple properties had been downzoned to C-1 during the 2009 comprehensive rezoning, and this particular property can only be accessed through a residential zone instead of on U.S. Rt. 113. In response to questions by Commissioner Fiori, Mr.

¹ After the meeting, it was determined that George Dix is still an active member serving on the Solid Waste Advisory Board, so Mr. Mitchell was placed on a wait list to be considered for future board service.

Cropper stated that the existing use on the property is not consistent with neighborhood commercial uses permitted in the C-1 district and pointed out that every property south of Atlantic General Hospital is zoned C-2.

In response to a question by Commissioner Bunting, Mr. Laick confirmed that this commercial property can only be accessed through a subdivision.

Following some discussion, a motion by Commissioner Mitrecic to approve the requested rezoning from C-1 to C-2 failed 3-4, with Commissioners Elder, Mitrecic, and Purnell voting in favor and Commissioners Abbott, Bertino, Bunting, and Fiori voting in opposition.

The commissioners conducted a public hearing on an application filed by Chaberton Solar Snow, LLC on the lands of Charles Waite, III, for a utility scale solar energy system Step I Concept Plan approval on property located on the northwest side of Timmons Road, east of U.S. Rt. 113, designated on Tax Map 56 as Parcel 10. Mr. Leslie swore in those individuals who planned to give testimony during the hearing. Zoning Administrator Kristen Tremblay reviewed the proposed project, which is anticipated to produce approximately 7.54 megawatts (DC) output on 28.9 acres of the 103.82-acre property, which is zoned A-1 Agricultural District and maintained under agricultural production. She advised that approximately 75 acres of the subject property will remain in agricultural production. She concluded that the Planning Commission found that the proposed solar project is a permitted use in the A-1 District and would have no adverse impacts on the surrounding properties; therefore, they granted a favorable recommendation to the Step I application.

Commissioner Bertino stated it was his understanding that the property owner would be required to put up \$582,372 to cover decommissioning costs.

Commissioner Bertino opened the floor to receive public comment.

Mark Cropper, attorney for the applicant, called on Andrew Reese, senior project manager, who reviewed project design plans. Mr. Reese stated that there will be a wildlife fence and stormwater management plans, and he explained that the project would have no wetland or environmental impacts. He also confirmed that the applicant will be covering the decommissioning bond. In response to comments by Commissioner Bunting, Ms. Tremblay advised that the State, rather than the County, would be holding the decommissioning bond. Mr. Leslie stated that the County will require the applicant to provide proof of the decommissioning bond.

In response to concerns raised by Commissioner Bunting regarding the environmental impacts if the solar project is decommissioned in the future, Mr. Leslie advised that the bond covers the specific costs to recycle or dispose of various materials. Mr. Reese concurred, noting that almost all of the solar materials are recyclable, the State calculates the recycling value, and requires an E-Waste Recycling Permit to salvage the panels. However, he noted that the materials themselves contain steel, silver, laminated glass, and other materials that are very valuable. In response to questions by Commissioner Fiori, Mr. Reese advised that the project materials have a 30-to-40-year lifecycle, which is conservative, as models indicate only one-half percent degradation a year.

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

Following some discussion, a motion by Commissioner Mitrecic to accept the Findings of Fact and approve the Step I Concept Plan failed 3-4, with Commissioners Abbott, Mitrecic,

and Purnell voting in favor and Commissioners Bertino, Bunting, Elder, and Fiori voting in opposition.

In response to a question by Commissioner Bertino, Ms. Keener advised that County staff will continue to accept public comments on the proposed revisions to the Worcester County Commissioner Election Districts through November 14, 2023.

The commissioners conducted a public hearing on the proposed FY24 Solid Waste Enterprise Fund Budget Amendment to increase the tipping fee from \$70 to \$80 per ton for municipal waste and include an additional fee of \$20 per paint/petroleum can removal charge for any paint or petroleum product that is illegally dumped at the landfill. Public Works Dallas Baker discussed the proposed changes, which will help discourage illegal dumping and save staff time. In response to a question by Commissioner Fiori, Mr. Baker advised that there will be a dumpster at the landfill to receive the paint cans.

Commissioner Bertino opened the floor to receive public comments. There being no public comments, Commissioner Bertino closed the hearing.

Commissioner Mitrecic agreed with the proposed tipping fee increase, but expressed concern that the \$20 per can removal fee would result in contractors placing their paint cans in the municipal trashcans throughout the County. Thus, the cans would still end up in the landfill. In response to a question by Commissioner Elder, Mr. Baker advised that the fee would only be applied for those caught illegally dumping paint cans. He further confirmed that there would be no fee imposed in addition to the tipping fee to those who place the paint cans in the trailer allocated for the removal of those products. Commissioner Fiori asked how County staff plan to educate the public about these changes. Mr. Baker advised that they plan to send letters to the haulers, whom they have previously asked not to dump these products in the landfill.

Following some discussion and upon a motion by Commissioner Bunting, the commissioners voted 6-1, with Commissioner Mitrecic voting in opposition, to approve the budget amendment as presented.

Chief Administrative Officer Weston Young presented information defining and identifying the differences between the two Board of Education (BOE) funding formulas, Blueprint for Maryland's Future (local share) and Maintenance of Effort (MOE), with Counties required to fund the greater of the two per-pupil costs. He advised that for FY24, the Blueprint local share was calculated at \$70.7 million and MOE was calculated at \$100 million, with the County required to fund MOE, as it is the greater of the two calculations. Because the County has consistently funded the BOE above the MOE level, Mr. Young explained that the local share is never projected to exceed MOE. In response to a question by Commissioner Bertino, Mr. Young explained that the policy changes that come with the five pillars of the Blueprint are not meant to be added to what the BOEs are doing now, but rather replacements or reconfigurations of various parameters, and local share is the projected cost to implement them.

Commissioner Mitrecic noted that during a recent meeting of the Local Development Council (LDC) for the Ocean Down Casino it was announced that the County does not have a new plan for the expenditure of Local Impact Grant (LIG) funds. Since the funds were used to pay off the Worcester Technical High School debt, and that debt has now been fully repaid, he

requested the County develop a new plan. Mr. Young stated that LIG funding recommendations are included in the FY 25 budget.

Commissioner Mitrecic stated concern that the commissioners should re-evaluate their appointments to the Planning Commission and Board of Zoning Appeals to avoid County residents the substantial costs involved in filing applications and hiring lawyers to present their cases before those boards if the commissioners are going to turn them all down and grind the County to a stop. Commissioner Fiori concurred with choosing board appointments, but stated that lawyers need not bring in outrageous rezoning requests to place large commercial projects next to agricultural zones and other properties with lower zoning codes and then testify that there are mistakes in the Comprehensive Plan. In response to a question by Commissioner Bertino, Mr. Leslie confirmed that the commissioners cannot replace an active board member until that person's term ends or in the event that the individual is not showing up to meetings.

The commissioners answered questions from the press, after which they adjourned to meet again on November 21, 2023.