

Minutes of the County Commissioners of Worcester County, Maryland

June 2, 2020

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

With this meeting, the Commissioners resumed assembling in-person to conduct County business; however, due to the ongoing COVID-19 pandemic, all attendees were required to wear free coverings and adhere to social distancing. This and all future meetings may also be viewed in real time at <https://media.swagit.com/zoom/worcestercountymd>.

The Commissioners convened in open session. Commissioner Mitrecic called the meeting to order, and following a morning prayer by Father Matthew D’Amario, of St. Paul’s by-the-Sea in Ocean City, and the pledge of allegiance, announced the topics discussed during the afternoon May 19, 2020 closed session meetings.

The Commissioners approved the open and closed session minutes of their May 12 budget work session, their May 14 emergency meeting, and their May 19 open session, open budget session, and closed regular and budget session.

The Commissioners met with Housing Program Administrator Jo Ellen Bynum regarding a request by the Maryland Department of Housing and Community Development (DHCD) for Worcester County’s continued participation in the “On Behalf Of” (OBO) Maryland Mortgage Program, which provides low interest loans primarily to first-time home buyers as well as to those home buyers who have not owned their principal residence within the last three years, as well as the Maryland Home Credit Program.

Upon a motion by Commissioner Church, the Commissioners unanimously agreed to irrevocably transfer Worcester County’s full \$1,904,496 tax-exempt housing bond allocation to the DHCD Community Development Administration for use in issuing housing bonds or mortgage credit certificates on behalf of Worcester County, as set forth in the 2020 allocation of the Maryland State Ceiling for use under the Maryland Mortgage Program and the Maryland Home Credit Program.

Pursuant to the request of Senior Budget Accountant Kim Reynolds and upon a motion by Commissioner Bertino, the Commissioners unanimously authorized Commission President Mitrecic to sign a letter requesting a six-month extension to the FY19 Maryland Community Development Block Grant (CDBG) for Diakonia shelter renovations, which is set to expire in October 2020, due to project delays that resulted from the COVID-19 pandemic.

Pursuant to the request from Ms. Reynolds and upon a motion by Commissioner Purnell, the Commissioners unanimously authorized Commission President Mitrecic to sign the application to the Maryland Department of Aging for funds of \$45,712, as a pass-through to the Commission on Aging (COA) to provide services for senior citizens activities centers through the Senior Citizens Activities Center Operating Fund. Ms. Reynolds advised that no County match is required.

Pursuant to the request from Economic Development Director Kathryn Gordon and upon a motion by Commissioner Nordstrom, the Commissioners unanimously agreed to reallocate a portion of funds from the modified Worcester County Economic Development (WCED) STEM (science, technology, engineering, and math) Summer Program to the WCED Workforce Back to Business Grant Program. This program will make available one-time grants of \$500 to support workforce expenses incurred by small, county-owned businesses, as they comply with the guidelines in Maryland's Roadmap to Recovery and the Maryland Strong Back to Business pledge to mitigate the spread of COVID-19.

The Commissioners met with incoming Assistant Chief Administrative Officer Weston Young to discuss an invoice from NAI Coastal for \$1,440, which represents a 6% commission for orchestrating the one-year lease of the former Liquor Control warehouse in Snow Hill to Hardwire, LLC. Mr. Young stated that the lease runs from month-to-month and may be terminated prior to one year. Therefore, he suggested paying the commission on a monthly or quarterly basis.

Upon a motion by Commissioner Elder, the Commissioners unanimously agreed to pay the commission on a monthly basis at a cost of \$120 per month for a period of one year or upon the dissolution of the lease, whichever is less.

Pursuant to the request of Public Works Director John Tustin and upon a motion by Commissioner Nordstrom, the Commissioners unanimously awarded the best bid for the Bayside Road Bridge replacement project to Murtech Marine Division of Salisbury, Maryland at a total cost of \$1,847,714, contingent upon funding approval from the Maryland State Highway Administration (SHA). Mr. Tustin stated that JJID, Inc. of Bear, Delaware submitted the low bid of \$1,698,555; however, they did not use the correct bid form and submitted an incomplete bid package and should be considered non-responsive.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Nordstrom, the Commissioners unanimously agreed to schedule a public hearing on July 7, 2020 to receive public comment on the proposed \$2.1 million Newark spray irrigation project, as required by County Code PW5-307(b)(2). Mr. Tustin explained that the project, which includes constructing a spray irrigation facility on 42 acres of County-owned farmland located north of the Worcester County Developmental Center, will be funded by a combination of a \$1.05 million low-interest loan and a \$1.05 million grant through the Maryland Department of the Environment (MDE), and the project is required under a consent order with MDE.

The Commissioners conducted a public hearing on the proposed FY21 Water and Wastewater Enterprise Fund operating budgets, assessments, user charges, and other charges for

each of the 11 Sanitary Service Areas (SSA) and sub-areas operated by the Worcester County Department of Public Works, Water & Wastewater (W&WW) Division. Assistant Finance Officer Jessica Wilson reviewed the proposed budgets for the County's various service areas, advising that user charges cover the operation and maintenance of these facilities, and while an attempt is made to keep the rate structures similar among the service areas, these rates are SSA specific. In addition to user fees, a debt service assessment is levied to repay bonds and loans for capital improvements to the water and sewer infrastructure that is financed by the County, and all assessments are based per equivalent dwelling unit (EDU), with debt service charges in the Mystic Harbour, Ocean Pines, Newark, Oyster Harbor, Riddle Farm, and Snug Harbour service areas or sub-areas. Ms. Wilson stated that there are no proposed rate increases in the Lighthouse Sound and West Ocean City (WOC) SSAs. Ms. Wilson thanked the Water and Sewer Advisory Boards from Ocean Pines, Mystic Harbour, and WOC for their review and recommendations on their respective SSA budgets. She then reviewed the proposed rate increases in each SSA. Assateague Point would increase from \$15 to \$25 per lot grinder pump flat surcharge. Bridletown SSA would increase in commercial water base fee ranging from \$53 to \$441.50 at present to \$56.75 to \$472.50, based on total EDUs, and increase in water usage charge from \$9.19 to \$9.75 per thousand gallons. Edgewater Acres SSA would increase from \$160 to \$175 per EDU per quarter domestic water and sewer base fee, increase from \$98 to \$103 per EDU per quarter domestic water flat charge, increase from \$140 to \$150 per EDU per quarter domestic sewer flat charge, and decrease from \$25 to \$0 per EDU per quarter accessibility fee. The Landings SSA would increase from \$240 to \$250 per EDU per quarter domestic water and sewer base fee, increase from \$37 to \$39 per EDU per quarter Lewis Road domestic water base fee, increase in commercial water and sewer base fees ranging from \$275 to \$2,300 at present to \$295 to \$2,461 based on total EDUs, and increase from \$230 to \$240 per EDU per quarter accessibility fee. Mystic Harbour SSA would increase from \$173 to \$178 per EDU per quarter domestic water and sewer base fee, increase from \$172 to \$175.75 per EDU per quarter domestic sewer flat charge, and increase in commercial water and sewer base fees ranging from \$212 to \$1,766 at present to \$227 to \$1,890 based on total EDUs, decrease from \$54 to \$18 per EDU per quarter Oyster Harbor debt service, and increase from \$47.50 to \$48.75 per EDU per quarter Sunset Village domestic water flat charge. Newark SSA would include a new \$55 per EDU per quarter sewer debt service. Ocean Pines SSA would increase from \$175 to \$179 per EDU per quarter domestic water and sewer base fee, increase from \$161.75 to \$164.75 per EDU per quarter domestic sewer flat charge, increase White Horse Park domestic water and sewer flat charge from \$138 to \$141 per lot per quarter, and increase in commercial water and sewer base fees ranging from \$212 to \$1,766 at present to \$227 to \$1,890 based on total EDUs. Riddle Farm SSA would increase from \$190 to \$200 per EDU per quarter domestic water and sewer base fee, increase in commercial water and sewer base fees ranging from \$212 to \$1,766 at present to \$227 to \$1,890 based on total EDUs, and include a new \$35 per EDU per quarter effluent disposal charge. River Run SSA would increase from \$54.69 to \$56 per EDU per quarter domestic water base fee.

Commissioner Mitrecic opened the floor to receive public comment.

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

Upon a motion by Commissioner Bertino, the Commissioners conceptually approved the proposed FY21 W&WW Enterprise Fund operating budgets, assessments, user charges, and other charges, and agreed to adopt the formal resolution at their next meeting on June 16, 2020.

The Commissioners conducted a public hearing on the Solid Waste Enterprise Fund FY21 Requested Operating Budget of \$3,323,563, representing an increase of \$137,928 or 4.33% for the Central Landfill in Newark (this budget does not represent operating costs for the homeowner convenience centers (HOCCs) and Recycling, which were previously transferred from the Solid Waste Enterprise Fund to the General Fund). Ms. Wilson stated that this budget includes increases from \$70 to \$75 per ton for municipal waste and maintains the rate of \$80 per ton for construction and demolition debris. HOCC permits will remain at \$100 for the first two vehicles and \$100 for the third and additional vehicles within each household, as previously agreed by the Commissioners at their May 12 budget work session, and an optional Pay-As-You-Throw cost of \$1 per bag for each 33-gallon bag disposed at any HOCC. The proposed budget also includes an increased fee for disposal of house trailers from \$1,000 to \$1,500 per trailer and a new fee for disposal of propane tanks at a cost of \$10 each. Ms. Wilson thanked the Solid Waste Advisory Board members for their review during the budgeting process and for the input they bring from the community. Upon a question by Commissioner Elder, Solid Waste Superintendent Mike Mitchell advised that the new \$75 per ton tipping fee was higher than neighboring counties at \$60 per ton, but he understood that those counties were also considering increasing their rates.

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 conceptually approved the proposed FY21 Solid Waste Enterprise Fund Operating Budget and agreed to adopt the formal resolution at their next meeting on June 16, 2020.

The Commissioners conducted a public hearing to receive comment on the proposed Liquor Control Enterprise Fund FY21 Operating Budget of \$930,000. This is the last remaining facet of the former Department of Liquor Control (DLC), as wholesale operations ceased in 2016, and all of the other Shore Spirits Retail Liquor Stores (RLS) were transferred to private ownership. The proposed budget allows for continued operations of the Pocomoke retail liquor store until ownership is transferred to Kalpesh Patel at the conclusion of the license appeal process. Ms. Wilson explained that the proposed budget has increased by \$15,000 in FY21 based upon higher projected sales at the Pocomoke retail liquor store.

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 Nordstrom, the Commissioners conceptually approved the proposed Liquor Control Enterprise Fund Requested FY21 Operating Budget and agreed to adopt the formal resolution at their next meeting on June 16, 2020.

The Commissioners conducted a public hearing on Rezoning Case No. 424 for an application submitted by Hugh Cropper, IV on behalf of Stockyard, Inc., property owner, which seeks to rezone approximately 0.25 acre of land located to the north of U.S. Rt. 50 and east of Golf Course Road in West Ocean City, and more specifically identified on Tax Map 27 as part of Parcel 569, from R-3 Multi-Family Residential 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 Deputy Director (DRP) Phyllis Wimbrow

reviewed the application, which received a favorable recommendation from the County Planning Commission. She 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. She then entered the Planning Commission's Findings of Fact into the record and stated that the petitioned area has been used as needed for over 30 years for commercial purposes in conjunction with the adjacent restaurant and was commercially zoned until the 1992 comprehensive rezoning, when it was changed to R-3. She stated that the Planning Commission concluded that there has not been a change in the character of the neighborhood, but that there is an issue with the consistency of the petitioned area's zoning classification with its long-time use. Therefore, the Planning Commission concluded that a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan.

Commissioner Mitrecic opened the floor to receive public comment.

Mr. Cropper stated that Pete and Royette Shepherd have owned the Hooper's property for over 30 years and utilized the upland portion of the property as needed for the restaurant for the same period of time. Therefore, it was a mistake to have zoned it R-3 in 2009. He urged the Commissioners to approve the rezoning request and advised that, if approved, the zoning district boundary will follow the revised property line of the recorded 2015 boundary line adjustment plat. He concurred with the Planning Commission's findings and asked the Commissioners to accept the findings as his testimony as well.

Surveyor Frank Lynch, Jr. advised that he completed a boundary survey in the early 2000s and a boundary line adjustment in 2015 and concurred that it was a mistake to have rezoned the property R-3.

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

Upon a motion by Commissioner Bunting, the Commissioners conceptually adopted the Planning Commission's Findings of Fact as their own and approved the rezoning from R-3 to C-2, based on a mistake in the existing zoning.

The Commissioners conducted a public hearing to obtain the views of citizens on community, economic development, and housing needs to be considered for submission of an application to the Maryland Community Development Block Grant (CDBG) Program for funds awarded through the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act. Senior Budget Accountant Kim Reynolds advised that the State of Maryland was awarded \$4,691,887 for non-entitlement counties to benefit low to moderate income persons in urgent need due to the COVID-19 pandemic. She stated that funds awarded to the County will be utilized by the Commission on Aging, the Worcester County Developmental Center, and Diakonia, Inc. to increase essential senior services, food programs, and homeless assistance due to the COVID-19 pandemic.

Commissioner Mitrecic opened the floor to receive public comment.

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

Upon a motion by Commissioner Bertino, the Commissioners unanimously adopted Resolution No. 20-9, authorizing the filing of a CDBG application for funds of \$800,110.60 to fund senior services, food programs, and homeless assistance due to the COVID-19 pandemic in Worcester County.

Pursuant to the request of Public Information Officer Kim Moses and Recycling Manager Mike McClung and upon a motion by Commissioner Bertino, the Commissioners unanimously approved the D3 Corp (D3) Television Advertising Campaign contract, selecting Option 2 - WBOC/WRDE with 48 primetime commercials for \$2,028 per month (510,879 possible impressions). This option will include airing two, thirty-second Keep Worcester Clean (KWC) commercials, one animated and one live action, from roughly June 5 through September 30, 2020. Ms. Moses advised that County staff worked closely with D3 Corp to craft scripts for the two commercials; however, the live action commercial, which is set to begin filming later this week, was postponed due to Governor Larry Hogan's stay-at-home order. The Commissioners then debuted the animated commercial at their meeting.

Pursuant to the request of Development Review and Permitting Director Ed Tudor and upon a motion by Commissioner Bertino, the Commissioners unanimously agreed to schedule a public hearing on Rezoning Case No. 423 for July 7, 2020. This application was submitted by Attorney Hugh Cropper, IV, on behalf of Antique Woodwork, Inc. and Francis Scott Key Motel, LLC, property owners, and seeks to rezone approximately two acres of land located on the easterly side of Elm Street, to the south of U.S. Rt. 50 and north of Old Bridge Road in West Ocean City, and more specifically identified on Tax Map 27 as Parcels 200, 201, 203, 204, 207, and 577, from R-3 Multi-Family District to C-2 General Commercial District. The application received a favorable recommendation from the Planning Commission.

Upon a motion by Commissioner Bunting, the Commissioners unanimously adopted Resolution No. 20-10 approving the creation of the Gum Point Road Area Sanitary Service Area (SSA), as conceptually approved following the public hearing on the matter on May 19, 2020.

Chief Administrative Officer Harold Higgins reviewed the final proposed FY21 Operating Budget, noting that Section 4-201 of the County Government Article of the Code of Public Local Laws of Worcester County requires that the Commissioners by resolution adopt an expense budget and tax rates on or before the first Tuesday in June. He then advised that the FY21 budget, which the Commissioners conceptually approved following their May 19, 2020 budget work session, includes revenues for FY21 totaling \$204,320,631 and maintains the current real property tax rate of \$0.845 per \$100 of assessed value and the local income tax rate of 2.25%. However, there is still a revenue surplus of \$533,320. To provide a balanced budget, he recommended that this surplus be allocated to a new account, Account No. 1090.070.9010.060 - Capital Equipment Other, within Other General Government to provide funding to replace capital equipment that was cut from the budget requests due to COVID-19 adjustments, but which may fail during FY21. Mr. Higgins explained that use of these funds for individual capital projects would be subject to approval from the Commissioners. Remaining funds in this account will fall to surplus if not spent during FY21. He further stated that there was a total of \$2,435,310 in requested capital equipment expenses that were removed from the originally requested budget, as recommended in the Committee Reviewed COVID-19 budget and approved by the Commissioners. He concluded that establishing this new line item for the surplus funds will assure that contingency funding will be available to replace capital equipment that may fail during fiscal year 2021.

Upon a motion by Commissioner Elder, the Commissioners unanimously approved the

FY21 Board of Education (BOE) budget of \$94,611,239 as presented.

Commissioner Elder opposed allocating surplus funds to the new account, Capital Equipment Other and suggested allocating those funds to budget stabilization to protect the County's AA bond rating. Commissioner Bunting concurred. Mr. Higgins advised that surplus funds can only be allocated to budget stabilization at the close of a fiscal year; therefore, doing so now would require them to reduce funding by this amount in another category to arrive at a balanced budget.

Upon a motion by Commissioner Nordstrom, the Commissioners voted 4-3, with Commissioners Church, Mitrecic, Nordstrom, and Purnell voting in favor and Commissioners Bertino, Bunting, and Elder voting in opposition, to convert one Deputy position from part-time to full-time within the Sheriff's Office at a cost of \$8,186 for personnel plus \$3,400 for equipment.

A motion by Commissioner Church to allocate grant funds of \$100,000 to Atlantic General Hospital (AGH) failed 3-4, with Commissioners Church, Nordstrom, and Purnell voting in favor and Commissioners Bertino, Bunting, Elder, and Mitrecic voting in opposition.

Upon a motion by Commissioner Purnell, the Commissioners voted 5-2, with Commissioners Bunting and Elder voting in opposition, to increase the grant to the Maryland Food Bank by \$5,000.

Upon a motion by Commissioner Nordstrom, the Commissioners voted 4-3, with Commissioners Church, Mitrecic, Nordstrom, and Purnell voting in favor and Commissioners Bertino, Bunting, and Elder voting in opposition, to increase the grant to Furnace Town from \$20,000 to \$40,000.

Upon a motion by Commissioner Nordstrom, the Commissioners voted 4-3, with Commissioners Church, Mitrecic, Nordstrom, and Purnell voting in favor and Commissioners Bertino, Bunting, and Elder voting in opposition, to allocate additional grant funding of \$42,854 each to the towns of Snow Hill and Pocomoke (\$85,708)¹ to help cover the cost of infrastructure repair projects, as requested by both towns in their FY21 County grant requests.

A motion by Commissioner Elder to allocate an additional \$33,000 grant to each of the fire companies to match the additional grant funds allocated to the Stockton Volunteer Fire Department to fund one full-time equivalent (FTE) paramedic position died for lack of a second.

Budget Officer Kathy Whited advised that, after these revisions to the budget, the surplus to the new Capital Equipment Other account totaled \$414,426.

Commissioner Bertino thanked County staff for cutting \$15 million out of originally requested budget, but he could not vote for this budget in light of economic uncertainties resulting from COVID-19 that could result in revenue reductions that are not accounted for in the proposed FY21 budget. Commissioner Bunting concurred.

Commissioner Elder expressed disappointment with these last minute budget decisions after the Commissioners had already voted on these items at their previous budget work session.

Commissioner Mitrecic stated that he previously swore never to support a County budget that did not provide a tax set-off to Ocean City, but that he will vote for this budget, as it includes increased funding to cover the town's cost of providing emergency medical services (EMS) to the West Ocean City (WOC) area.

¹ The originally-approved minutes incorrectly attributed the source of \$42,854 each to Snow Hill and Pocomoke as being "from casino table game revenues," which Commissioner Nordstrom confirmed was not part of his motion.

A motion by Commissioner Nordstrom to adopt the FY21 budget as amended failed 3-4, with Commissioners Mitrecic, Nordstrom, and Purnell voting in favor and Commissioners Bertino, Bunting, Church, and Elder voting in opposition.

In response to concerns raised by the Commissioners with regard to reconsidering motions, County Attorney Roscoe Leslie stated that the Commissioners may make as many motions as needed to arrive at a balanced FY21 budget, which must be adopted at this meeting in accordance with County law.

After some discussion and upon a motion by Commissioner Nordstrom, the Commissioners voted 4-3, with Commissioners Church, Mitrecic, Nordstrom, and Purnell voting in favor and Commissioners Bertino, Bunting, and Elder voting in opposition, to approve a County grant of \$100,000 to AGH. Commissioner Mitrecic stated that the proposed budget includes a lot of good and necessary expenditures, and while he does not support the grant to AGH, he was not willing to see the proposed FY21 budget fail based on this one grant request.

Upon a motion by Commissioner Nordstrom, the Commissioners voted 4-3, with Commissioners Church, Mitrecic, Nordstrom, and Purnell voting in favor and Commissioners Bertino, Bunting, and Elder voting in opposition, to conceptually approve the FY21 County General Fund Operating Budget as amended. Staff agreed to present the revised resolution for adoption once amended.

Commissioner Nordstrom thanked Information Technology staff for hosting virtual Commissioners' meetings throughout the COVID-19 crisis. He also thanked staff in the Roads Division of Public Works for resolving several complaints from constituents regarding road issues. He recognized the Food Bank and AGH for their services to the community during the COVID-19 pandemic.

Commissioner Purnell thanked both Assistant Chief Administrative Officer Kelly Shannahan and Health Officer Becky Jones for handling individual issues of concern.

Following a motion by Commissioner Elder, seconded by Commissioner Nordstrom, the Commissioners unanimously voted to meet in closed session at 11:21 a.m. to discuss legal and personnel matters permitted under the provisions of Section 3-305(b)(1), (7), and (8) 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 Harold L. Higgins, Assistant Chief Administrative Officer (ACAO) Kelly Shannahan, incoming ACAO Weston Young; County Attorney Roscoe Leslie, Public Information Officer Kim Moses, and Human Resources Director Stacey Norton. Topics discussed and actions taken included hiring Delaney Dunnavant as a Plant Operator Trainee for the Water and Wastewater Division of Public Works and other personnel matters; discussing pending litigation; receiving legal advice from counsel; and performing administrative functions, including postponing their June 30, 2020 meeting with Maryland Association of Counties (MACo) representatives until June 2021.

Following a motion by Commissioner Nordstrom, seconded by Commissioner Bertino, the Commissioners unanimously voted to adjourn their closed session at 12:12 p.m.

After the closed session, the Commissioners resumed their open session. Commissioner

Mitrecic announced the topics discussed in closed session.

Upon a motion by Commissioner Nordstrom, the Commissioners voted 4-3, with Commissioners Church, Mitrecic, Nordstrom, and Purnell voting in favor and Commissioners Bertino, Bunting, and Elder voting in opposition, to adopt Resolution No. 20-11, adopting the expense budgets and establishing tax rates for FY21, as amended and as conceptually approved prior to their closed session meeting.

The Commissioners adjourned to meet again on June 16, 2020.