

Minutes of the County Commissioners of Worcester County, Maryland

December 3, 2019

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

Following a motion by Commissioner Mitrecic, seconded by Commissioner Nordstrom, 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), (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 Kelly Shannahan, County Attorney Maureen Howarth, Public Information Officer Kim Moses, and Human Resources Director Stacey Norton. Topics discussed and actions taken included: hiring Brooks Taylor as a part-time temporary Parks Worker II within Recreation and Parks and John Dean as a Maintenance Worker I within the Water and Wastewater Division of Public Works; transferring Eric Tomlinson from Maintenance Worker II within the Maintenance Division to Plant Operator Trainee for the Water and Wastewater Division of Public Works; discussing pending litigation; receiving legal advice from counsel; and performing administrative functions, including discussing potential board appointments.

Following a motion by Commissioner Nordstrom, seconded by Commissioner Bertino, the Commissioners unanimously voted to adjourn their closed session at 9:50 a.m.

After the closed session, the Commissioners reconvened in open session. Commissioner Purnell called the meeting to order, and following a morning prayer by Tara Armstrong and pledge of allegiance, announced the topics discussed during the morning closed session.

The Commissioners held the election of officers for the coming year through December 7, 2020. Upon a nomination by Commissioner Church, the Commissioners unanimously voted to elect Commissioner Mitrecic as President of the Board of County Commissioners. Upon a nomination by Commissioner Bertino, the Commissioners unanimously elected Commissioner Elder as Vice President of the Board of County Commissioners.

The Commissioners reviewed and approved the minutes of their November 19, 2019 open session as presented and closed session as amended.

The Commissioners met with Library Director Jennifer Ranck to discuss a preliminary design and engineering analysis/feasibility study for the Pocomoke Branch Library along with

options to either renovate and expand or to replace this facility. Ms. Ranck reminded the Commissioners that On May 7, 2019, the Commissioners approved County funding of \$120,000 to match an FY20 County Public Library Capital Grant of \$120,000 for the design phase of the Pocomoke Branch Library project, with the library to pursue an FY21 County Public Library Grant to cover construction costs. Ms. Ranck provided background information regarding the 6,700-square-foot (SF) facility, noting that a 2013 Countywide Library facility study identified building improvements to this facility as the second most critical need after replacing the Berlin Branch Library, a project that was completed in 2018. She advised that the Pocomoke facility needs include replacing the roof, flooring and the heating, ventilation, and air conditioning (HVAC) system; making energy improvements to the plumbing and lighting systems; reallocating space to improve building functionality and staff visibility; and constructing a 4,000-SF addition to support current and projected needs. Ms. Ranck then reviewed pre-design work and the two proposals completed in FY19 and the options available for expanding the facility as follows: building scheme 1 (with a 2,500-SF addition) at an estimated cost of \$5,155,125; and building scheme 2 (with a 4,000-SF addition) at an estimated cost of \$5,569,159, both of which came in at costs higher than anticipated and which include mechanical system improvements, including code required ventilation, and additional meeting room space, enhanced children's and young adult spaces, vestibules at each entrance, new restrooms, and overall improved space functionality, office and work area improvements, small meeting/tutoring rooms, and technology and power upgrades. She then reviewed the three options available for replacing or renovating the Pocomoke facility as follows: Option 1 - select a preferred scheme and submit a proposal for architectural services in FY20 and submit a grant application by May 2020 for State construction funds to be awarded in FY22 to renovate and expand the existing site, which provides easy public access; Option 2 - evaluate other sites in Pocomoke and explore the possibility of a shared facility with the Commission on Aging for a senior center, though the current State grant would have to be rescinded, as said funds cannot be used for site evaluation and analysis because the activity does not meet the 15-year life span requirement, although the library could submit a different request for a different project, with only the Library portion of the project to be eligible for acquisition, design, construction and furniture, fixtures, and equipment (FFE) funding; and Option 3 - accept the site offered by the City of Pocomoke, which is located on Willow Street behind the Discovery Center and across from the Sturgis One-Room School and Heritage House, which consists of several parcels totaling 47,000 SF. Ms. Ranck stated that Option 3 to construct a new library at a cost of approximately \$565 to \$615 per SF, with a 3-5% escalation cost each year, is the staff preferred option, and the value of the donated property may be used to help meet the County match requirement for the State Library Capital Grant Program. Ms. Rank noted that there are several shared buildings across Maryland, in which said facilities share parking, restrooms, and meeting space. She concluded that, if the Commissioners approve Option 3, she recommends first completing a site evaluation study and hiring Architect Jeff Schoellkopf to complete a preliminary design concept of a shared facility, with roughly 11,000 SF for the library and 4,000 SF for the senior center.

Commissioner Bertino stated that the current Health Department facility in Pocomoke leaves much to be desired and requested Health Department officials be included in any discussions regarding a shared space facility. Ms. Ranck agreed.

Following some discussion and upon a motion by Commissioner Nordstrom, the Commissioners unanimously approved investigating Option 3 to complete a site evaluation study

and environmental testing of the property offered by the Town of Pocomoke, including accepting the proposal from Jeff Schoellkopf of The Design Group to complete preliminary design concepts of a shared facility with the Commission on Aging Senior Center and Health Department to see if a shared facility would be practical on that site.

Pursuant to the recommendation of Ms. Ranck and upon a motion by Commissioner Bertino, the Commissioners unanimously approved the alternate bid from S. Lee Smith, Jr., Inc. T/A Value Carpet One of Salisbury, Maryland at a cost of \$42,462 for the purchase and installation of carpeting at the Ocean Pines Branch Library with a fully-closed library and an additional cost of \$4,081 for self-leveling floor patch compound on the concrete floors for a total cost of \$46,543. Funds of \$85,000 are available within the FY20 budget for this project, which also includes the cost to make the book shelves as previously approved.

The Commissioners reviewed and discussed various board appointments.

Upon nominations by Commissioner Nordstrom, the Commissioners unanimously agreed to reappoint Larry Fykes to the Board of Zoning Appeals and C.D. Hall to the Housing Review Board for additional three-year terms each expiring December 31, 2022 and to reappoint Barbara Tull to the Tourism Advisory Committee for an additional four-year term expiring December 31, 2023.

Upon nominations by Commissioner Bunting, the Commissioners unanimously agreed to reappoint Debbie Hileman to the Housing Review Board for an additional three-year term expiring December 31, 2022 and Bob Poremski to the Water and Sewer Advisory Council for the Ocean Pines Service Area for an additional four-year term expiring December 31, 2023.

Upon nominations by Commissioner Purnell, the Commissioners unanimously agreed to appoint James L. Purnell, Jr. to the Board of Zoning Appeals for a three-year term expiring December 31, 2022 to replace Larry Duffy whose term is expiring; to reappoint Roy M. Case to the Board of Electrical Examiners, Natasha Collick Owens to the Economic Development Advisory Board, Elbert Davis to the Building Code Appeals Board, and Roxane Rounds to the Local Development Council for the Ocean Downs Casino for additional four-year terms each expiring December 31, 2023; and to reappoint Betty M. Smith to the Planning Commission for an additional five-year term expiring December 31, 2024.

Upon nominations by Commissioner Purnell, the Commissioners unanimously approved the following appointment and reappointments to the Drug and Alcohol Abuse Council: to appoint Donna Nordstrom for the remainder of a four-year term expiring December 31, 2021 to replace Colleen Wareing; and to reappoint Mimi Dean, Jennifer LaMade, and Jim Freeman, Jr. for additional four-year terms each expiring December 31, 2023.

Upon nominations by the Commission on Aging Board and a motion by Commissioner Nordstrom, the Commissioners unanimously agreed to reappoint Joyce Cottman and Frederick Grant to the Commission on Aging Board for additional three-year terms each expiring September 30, 2022.

Upon nominations by the Commission for Women and Department of Social Services and upon a motion by Commissioner Nordstrom, the Commissioners unanimously agreed to reappoint Mary E. "Liz" Mumford as an at-large member and to appoint Coleen Colson to replace Shannon Chapman as the Department of Social Services representative on the Commission for Women for three-year terms each expiring December 31, 2022.

Upon nominations by the Youth Council and a motion by Commissioner Nordstrom, the Commissioners unanimously approved the following appointments to the Worcester County Youth Council: appointing Charles Townsend, III of Snow Hill High School (SHHS) to a two-year term expiring April 30, 2021, and Amber Whittaker of Stephen Decatur High School (SDHS) to a one-year term expiring April 30, 2020.

In follow up to a request from the Commissioners on November 19, 2019, Budget Officer Kathy Whited and Senior Budget Accountant Kim Reynolds presented recommendations regarding how best to distribute \$100,000 in County funding directly to area nonprofits that provide food assistance to families with children. Also in attendance was Vince Tolbert, Chief Financial Officer for the Board of Education (BOE). Ms. Whited recommended allocating \$10,000 now to the BOE, which serves over 2,800 students from impoverished households or 41% of total student enrollment, to help them provide hot meals over the six-day Christmas break at Pocomoke Middle School (PMS). She further recommended allocating funding for summer assistance beginning June 2020 of \$50,000 to the BOE and of \$10,000 each to Diakonia, Inc, of Ocean City, which serves 250 families per month; Samaritan Shelter Inc. of Pocomoke City, which serves 60-70 families per month; Snow Hill Ecumenical Food Pantry, which serve 70-80 families per month; and Worcester County GOLD, which served 174 families consisting of 250 children in 2018. Ms. Whited advised that the BOE partners with the Maryland Food Bank (MFB), and the County funding would allow the BOE to purchase items in addition to those donated by the MFB and allow them to expand the number of sites and families served for the long breaks and summer for all County children in need. She stated that staff further recommends the County require these nonprofits to submit food receipts and records of the number of children served to the County by September 1, 2020. In response to questions by Commissioner Bertino, Mr. Tolbert advised that, while multiple schools have food pantries, this winter the BOE will run a pilot program at Pocomoke Middle School (PMS), which will serve hot meals onsite to children in need from the surrounding community during the 2019 Christmas break. He stated that the BOE currently receives certain free food products from the MFB, but this additional County funding will allow the BOE to purchase higher quality foods to serve as well. He further advised that BOE officials chose to institute the pilot program at PMS, to serve students in the community with the highest concentration of poverty, but that in June the BOE will begin offering food service programs at other County schools as well.

Commissioner Purnell urged the BOE to partner with area churches that already have organized feeding programs and backpack programs. Mr. Tolbert advised that the schools do work with churches and other area nonprofits, noting that the BOE currently has 17 summer feeding sites, including churches, and will be able to add additional sites thanks to the County funding. He further confirmed that the feeding program is targeted strictly to children.

Following some discussion and upon a motion by Commissioner Bertino, the Commissioners unanimously approved the recommendations provided by staff to distribute \$100,000 in County funding directly to area nonprofits that provide food assistance to families with children.

Environmental Programs Director Bob Mitchell presented the findings given by Dr. Memo Diriker of the Business Economic and Community Outreach Network (BEACON) at Salisbury University, to the Phosphorus Management Tool (PMT) Transition Advisory

Committee on November 15, 2019, which outlined the following reasons for recommending that the implementation of the next phase of State PMT regulations be postponed for one year: the program lacks the funding, trucks, and drivers to relocate the expected amount of excess manure to fields with lower nutrient levels; additional funding is not present in the agricultural sector to pay for commercial nitrogen fertilizer to replace the manure; there is additional pressure on receiving farms within suitable trucking distance to withhold acceptance of the manure in favor of wastewater bio-solids or other materials; and alternative uses, despite waste technology funding from the State, have not been established to provide the necessary capacity needed to process the excess manure. Mr. Mitchell explained that the committee is tasked with making a recommendation to the Secretary of Agriculture about any potential changes to the PMT implementation schedule; however, in spite of Dr. Diriker's findings, a majority of the members were not willing to vote to delay implementing the next phase of the PMT plan for a year. He then explained that a one-year delay is needed to provide agricultural producers and the State the additional time needed to put measures in place to transition to the next phase of the PMT. Mr. Mitchell noted that Worcester County is the second largest poultry producer in Maryland, which is the eighth leading poultry producer in the nation. Therefore, he recommended informing Governor Larry Hogan that, without the local infrastructure capacity improvements and any meaningful alternative uses in place, it is doubtful that this sector will be able to successfully bridge to the next phase without significant local economic impacts.

Upon a motion by Commissioner Bertino, the Commissioners unanimously authorized Commission President Mitrecic to sign a letter to Governor Hogan outlining the County's concerns with implementing the next phase of the PMT regulations as identified in Dr. Diriker's report.

Pursuant to the recommendation of Development Review and Permitting (DRP) Director Ed Tudor and upon a motion by Commissioner Nordstrom, the Commissioners unanimously authorized Kelly Henry, DRP Technical Services Division Manager and Complete Count Committee Coordinator for the 2020 Census, to apply for an unconditional State grant for \$20,000 to assist the County in its efforts to improve Census participation locally. Mr. Tudor stated that every person not counted in the Census results in the loss of \$18,250 in federal funds to the State and local jurisdictions over a ten-year period.

Pursuant to the request of Mr. Tudor and upon a motion by Commissioner Church, the Commissioners unanimously approved out-of-state travel for Zoning Administrator and American Institute of Certified Planners (AICP) member Jennifer Keener to attend the American Planning Association's National Conference in Houston, Texas from April 25-28, 2020 at a cost to cover registration, flights, lodging and meals, with funding available in the FY20 budget for this expense. Mr. Tudor explained that attendance at the conference will enable Ms. Keener to earn continuing professional development credits needed to retain her AICP certification.

In follow up to their second public hearing on November 19, 2019, the Commissioners met with members of the Sewer Committee to review and discuss a revised draft resolution establishing standard sewer flow calculations. Sewer Committee representatives in attendance included Chief Administrative Officer Harold Higgins, Assistant Chief Administrative Officer Kelly Shannahan, County Attorney Maureen Howarth, Environmental Programs Director Bob Mitchell, Environmental Programs Deputy Director David Bradford, Public Works Director John

Tustin, Public Works Deputy Director John Ross, Development Review and Permitting Director Ed Tudor, Finance Officer Phil Thompson, and Enterprise Fund Controller Jessica Wilson. Mr. Shannahan stated that, in accordance with the Commissioners' directions following the public hearing, staff revised the draft resolution to include provisions that would allow any applicant to dispute the projected sewer flow and enter into an allocation agreement to monitor the flow for 24 months to determine the actual flow. He advised that, if an applicant presents data that staff agrees supports a lower flow, the initial purchase of equivalent dwelling units (EDUs) will be based on the lower flow and may be adjusted at the completion of the 24-month monitoring period. However, if the applicant presents data that staff does not agree supports a lower flow the initial purchase of EDUs will be based on the standard sewer flow calculations and may be adjusted at the completion of the 24-month monitoring period. Specifically, staff added two new sections to the resolution that include a new Section 2, which addresses "Other Uses and Disputed Allocations," and a new Section 3, which addresses the provisions of "Allocation Agreements." Mr. Shannahan stated that these revisions adequately address the Commissioners' instructions to provide an avenue for potential relief for all applicants by entering into an allocation agreement to determine the actual flow for disputed allocations, and he urged the Commissioners to adopt the revised resolution as presented.

Commissioner Bunting questioned who will review appeals if an applicant submits evidence that projects a lower flow than that outlined in the sewer flow calculations chart. Mr. Shannahan stated that the Departments of Environmental Programs, Public Works, and the Treasurer's Office will review the data to support a lower flow, but even if staff does not agree to a lower flow, an individual may dispute said flow and enter into a 24-month allocation agreement, during which time the County will monitor usage and afterward adjust the flow and buy back excess EDUs if the actual flow supports a lower number of EDUs. Similarly, if actual flows are higher than projected during the monitoring period, the applicant would be required to purchase additional EDUs if available or adjust sewer usage if additional EDUs are no longer available. In response to additional questions by Commissioner Bunting, Ms. Howarth stated that how the County service areas will set aside funds for EDU reimbursements is a primary concern that still needs to be addressed.

In response to questions by Commissioner Bertino, Mr. Shannahan stated that County staff would accept sewer bills that show actual sewer flow usage for a similar project to support an applicant's claim to purchase fewer EDUs. He also confirmed that the allocation agreement removes all subjectivity from sewer flow calculations, as any decision would be based on hard data identifying actual sewer flow for the project in question. Ms. Howarth concurred, and she cautioned that it may be difficult to measure the true number of EDUs a developer needs for a shell project, as the developer would likely purchase EDUs based on retail space, which reflects the lowest possible use, until all of the fit out permits for the intended uses have been issued and said project begins operating at full capacity. Ms. Wilson advised that not all units in large projects, like strip malls, have individual meters but that they would have to be installed at a cost of approximately \$2,600 for the one-inch line and the meter, at the developer's expense to enter into the allocation agreement.

In response to a question by Commissioner Church, Mr. Shannahan stated that the Commissioners can review and revise the sewer flow allocation chart at any point they deem appropriate. Commissioner Mitrecic suggested the Commissioners seek input from the community and revisit how the allocation agreement policy is working after the first year.

Following much discussion and upon a motion by Commissioner Purnell, the Commissioners voted 6-1, with Commissioner Bunting voting in opposition, to adopt Resolution No. 19-37, with the understanding that the Commissioners will review the success of the allocation agreement program after one year.

The Commissioners met with Mr. Shannahan on behalf of the Sewer Committee to review a request from Pete and Royette Shepherd, owners of Stockyard, Inc., for allocation of seven additional equivalent dwelling units (EDUs) of sanitary sewer service from the Mystic Harbour Sanitary Service Area (SSA) to serve a revised use, to include a 1,409-square-foot butcher shop and 1,496-square-foot carry-out restaurant in the proposed Hooper's Shopping Plaza, which is currently under construction adjacent to Hooper's Crab House in West Ocean City (WOC) at the foot of the Harry W. Kelley Memorial Bridge and more specifically identified on Tax Map 27 as Parcels 569 (primarily Hooper's Crab House) and 587 (new shopping center under construction). Mr. Shannahan advised that Stockyard Inc. purchased nine EDUs for the proposed shopping plaza in June 2018, based upon the proposed retail and office uses at that time, an additional seven EDUs for a proposed restaurant in July 2019, and are now proposing to lease space for a butcher shop and carry-out restaurant, which will generate flow of 705 gallons per day (gpd) and 748 gpd, respectively, or a combined total of 1,453 gpd. Mr. Shannahan stated that, based on a rate of 300 gpd per EDU, an additional total of five EDUs, not the requested seven EDUs, are needed to accommodate the new proposed use. Therefore, in accordance with Resolution No. 17-19, no more than five EDUs should be allocated. Mr. Shannahan advised that the property is currently zoned C-2 General Commercial District and is designated S-1 (designated for sewer services within two years) in the County Water and Sewerage Plan, though this does not guarantee any service or obligate the provision of services in that time frame. He stated that if the EDU allocation request is approved, the applicant will also be required to purchase water service from the Mystic Harbour water system to serve the butcher shop and carry-out restaurant.

Mr. Shannahan advised that Parcel 569 has an allocation of 38 sewer EDUs from the West Ocean City SSA to serve Hooper's Crab House that cannot be co-mingled with the Mystic Harbour EDUs. As a result and at the Commissioners' request, the applicant provided a plat designating the EDU Service Area Assignment Line to separate the EDUs. He noted that approval of these additional EDUs should also be subject to the same restrictions prohibiting co-mingling of the WOC and Mystic Harbour EDUs.

Mr. Shannahan advised that 109 remaining EDUs are available in Area 1 (north of the airport) as follows: 33 EDUs - Infill and Intensification; 50 EDUs - Vacant or Multi-Lot Properties (to replace septic); 17 EDUs - Single Family Dwellings (to replace septic); and nine EDUs - Commercial. He advised that the Sewer Committee suggested that the Commercial allocation would be the most appropriate category from which to consider assigning the EDUs.

Upon a motion by Commissioner Church, the Commissioners voted 6-1, with Commissioner Mitrecic voting in opposition, to approve Option 1 for allocation of five EDUs from the commercial category in Area 1 to serve the proposed butcher shop and carry-out restaurant of the Hooper's Shopping Plaza.

Pursuant to the request of Public Works Director John Tustin and upon a motion by Commissioner Elder, the Commissioners unanimously authorized the Commission President to

sign two utility easements between the County Commissioners (grantee) and two property owners, the Worcester County Developmental Center (WCDC) and Chester Lee and Judy Carol Jones (grantors), with said grantors granting utility easements benefitting grantee crossing the lands of the grantors to install a six-inch force main on the grantors' properties for the Newark Spray Irrigation Project.

The Commissioners answered questions from the press, after which they adjourned at 11:10 a.m.

The Commissioners reassembled at 11:45 a.m. in the atrium of the Worcester County Government Center where they assisted Worcester County Developmental Center clients in decorating the County Christmas Tree, after which they adjourned to meet again on December 17, 2019.