

Minutes of the County Commissioners of Worcester County, Maryland

March 6, 2007

James L. Purnell, Jr., President
Louise L. Gulyas, Vice President (Absent)
Judith O. Boggs
Linda C. Busick
James C. Church
Robert L. Cowger, Jr.
Virgil L. Shockley

Following a motion by Commissioner Shockley, seconded by Commissioner Boggs, with Commissioner Gulyas absent, the Commissioners unanimously voted to meet in closed session at 9:30 a.m. in the Commissioners' Conference Room to discuss legal and personnel matters permitted under the provisions of Section 10-508(a)(1), (7) and (8) of the State Government Article of the Annotated Code of Maryland and to perform executive actions. Also present at the closed session were Gerald T. Mason, Chief Administrative Officer; Kelly Shannahan, Assistant Chief Administrative Officer; Edward H. Hammond, Jr., County Attorney; Kim Moses, Public Information Officer; and Economic Development Director Jerry Redden. Topics discussed and actions taken included: promoting John Azzolini to Planning and Zoning Technician within Development Review and Permitting; appointing Debbie Ritter and reappointing Melissa Banks to the Adult Public Guardianship Board; reviewing potential and pending litigation; receiving legal advice from counsel; and performing executive actions.

Commissioner Gulyas was absent from the meeting.

After the closed session, the Commissioners reconvened in open session. Commissioner Purnell called the meeting to order and announced the topics discussed during the morning closed session.

The Commissioners reviewed and approved the minutes of their February 20, 2007 meeting, as amended.

The Commissioners presented a proclamation recognizing March as National Social Work Month to Social Services Director Pete Buesgens, thanking him and his staff for all they do to aid those in need. Mr. Buesgens stated that it was an honor to serve in a field that existed to empower the weak and protect the vulnerable in our community.

The Commissioners met with Health Officer Debbie Goeller to review bids for the purchase of furniture for the new Health Department building in Snow Hill. Ms. Goeller recommended awarding the following bids with modifications discussed later to meet the budget: Section A - relocating existing furniture; Section B - new furniture for the administrative offices; Section C - desks and work cubicles from prevention and core service agency; Section E

- quality, information and systems; Section F - front lobby; and G - conference rooms for a total cost of \$323,317, less modifications, to F. A. O'Toole of Hunt Valley, Maryland; Section D - medical equipment to existing medical equipment vendors at a total cost of \$38,000; and Sections H - Courtyard Chairs and Section I - Exterior Furniture to Barco Catalog, Co. at a total cost of \$23,589, less modifications. She stated that the total cost to purchase new furniture and relocate existing furniture would be \$384,906, which exceeds the \$202,500 construction budget for furniture by \$182,406. Ms. Goeller concluded that \$134,699 had been identified within the Health Department's Operating Budget to help cover the shortfall, leaving a deficit of \$54,144. Ms. Goeller proposed addressing the deficit by using existing furniture in the new lobby and interview rooms, eliminating three work stations in administration, eliminating court yard chairs and reducing the number of exterior items (bike racks and benches). Commissioner Purnell expressed concern with using old furniture in their brand new facility and asked if Contingency Funds were available to cover the shortfall. Mr. Mason explained that Contingency Funds were available, but might be needed. After much discussion and upon a motion by Commissioner Shockley, the Commissioners awarded the furniture bid as recommended by Ms. Goeller and including the new furniture for the lobby, interview rooms and the three work stations in administration using \$30,077 in Project Contingency Funds.

In a related matter, the Commissioners approved the sole source vendor for moving and expanding the movable medical record filing systems at a cost of \$119,966 using \$100,000 in County encumbered funds and \$20,000 in funds from the current Health Department budget.

Pursuant to the request of Sharon Beyma, of the Health Department, and upon a motion by Commissioner Boggs, the Commissioners unanimously approved bid specifications for the production and distribution of the 2007 Play It Safe in Ocean City Senior Guide booklets and posters.

Pursuant to the request of Ms. Beyma and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Purnell to sign a lease agreement for an apartment at 405 Lark Lane in Ocean City that is to be used to house the Hot Boards Assessment Unit for the Ocean City Youth Health Center during the summer of 2007.

Pursuant to the request of Karin Scott, Grants Administrator, and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Purnell to sign the 2007 Rental Allowance Program Grant Application and Grant Agreement in the amount of \$26,180 between the Maryland Department of Housing and Community Development (DHCD) and Worcester County to be administered by the Worcester County Department of Social Services.

Pursuant to the request of Maryland Broadband Cooperative (MBC) Secretary/Treasurer Michael Pennington and upon a motion by Commissioner Shockley, the Commissioners unanimously agreed to send a letter to the United States Department of Commerce, Economic Development Administration, supporting the MBC's grant application for funds to complete the fiber optic broadband network project.

The Commissioners held a public hearing on a Comprehensive Water and Sewerage Plan amendment to expand the Riddle Farm Water Planning Area to provide public water service to serve Wal Mart/Home Depot and the proposed Ocean Landing II commercial development and the Berlin Volunteer Fire Department (BVFD) property adjacent to Wal Mart/Home Depot. The subject properties are located on the south side of Ocean Gateway (US Rt. 50) just east of its intersection with Racetrack Road (MD Rt. 589), east of the Town of Berlin, in the Third Tax District of Worcester County, Maryland. The subject properties are more specifically identified on Worcester County Tax Map 26 as Parcels 303 and 455 (Wal Mart/Home Depot) and Parcels 301, 302, and 305 (Ocean Landing II commercial development and BVFD) and comprises 356 acres of land. The portion of the water planning expansion area designated Commercial Center by the Worcester County Comprehensive Development Plan and the land owned by the BVFD will be designated W-1, Immediate Service, while the portion designated as Agriculture will be designated as W-6, No Planned Service. Comprehensive Planning Director Sandy Coyman reviewed the application and noted that the Planning Commission had reviewed the proposal and found it to be consistent with the Comprehensive Plan.

Commissioner Purnell opened the floor to receive public comment.

Attorney Mark Cropper asked the Commissioners to support the proposed amendment as submitted.

Michael DeChant, Glen Riddle Homeowners Association (GRHA) president, speaking on behalf of the GRHA, supported the requested expansion, but expressed concern that further development could exacerbate safety concerns at the intersection of US Rt. 50 and the entrance of the Riddle Farm where recent accidents had occurred. He stated that the intersection is being used as a thoroughfare for motorists attempting to avoid heavy traffic at the intersection of US Rt. 50 and MD Rt. 589. Commissioner Purnell stated that the Commissioners had opposed the closing of the service road that ran parallel to US Rt. 50 adjacent to the Riddle Farm, which would have alleviated this dangerous intersection. However, the Maryland State Highway Administration (SHA) had opposed the option. He stated that the only option available to the Commissioners and the GRHA was to work with the SHA to address safety concerns. Commissioner Boggs asked Mr. DeChant to submit his concerns to the Commissioners in writing.

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

Following some discussion and upon a motion by Commissioner Church, the Commissioners unanimously adopted Resolution No. 07-4 amending the Comprehensive Water and Sewerage Plan for Worcester County to expand the Riddle Farm Water Planning Area.

The Commissioners met with Recreation and Parks Director Sharon DeMar Reilly and Parks Superintendent Gary Collier to review and discuss recommendations regarding proposals for Engineering, Surveying and Designing Services for the Northern Worcester Athletic Complex. Ms. Reilly stated that the proposal from E.A. Engineering, Science and Technology of Sparks, MD was the best proposal and, therefore, recommended awarding them the contract to complete the work at a cost of \$49,765.10 along with geotechnical services at an additional cost of \$5,900 for a total cost of \$55,665.10. In response to a question from Commissioner Cowger, Mr. Collier stated that George E. Young of Pocomoke City, Maryland, a member of the Recreation Advisory Board, was the lowest bidder at \$20,000. However, his proposal was not

complete and did not address all of the items outlined in the Request for Proposals (RFP). Commissioner Cowger stated that Recreation and Parks has topographical data, which Mr. Young proposed to update rather than performing a new survey in order to save money. A motion by Commissioner Cowger to award the low proposal for engineering, surveying and designing services to George E. Young at a cost of \$20,000 failed 1-5, with Commissioner Cowger voting in favor and Commissioners Boggs, Busick, Church, Purnell and Shockley voting in opposition. In response to a question from Commissioner Shockley, County Attorney Edward H. Hammond, Jr. stated that it was not necessarily a conflict of interest for Mr. Young to bid on Recreation and Parks projects, but that he would defer to the Ethics Board for an official ruling if needed. Commissioner Boggs suggested deferring the matter until the next meeting. Chief Administrative Officer Gerald T. Mason stated that Mr. Young had performed work on this property for Recreation and Parks previously, and therefore had the topographical information in his files. Mr. Collier stated that the topographical information had not been provided to other bidders, since new topographical information was needed due to improvements and changes to the property since the last topographical survey in 1996. In response to a question from Commissioner Cowger, based upon the RFP Mr. Collier stated that Recreation and Parks could work with Mr. Young to complete the project. Upon further discussion and upon a motion by Commissioner Cowger, the Commissioners voted 5-1, with Commissioner Boggs in opposition, to award the low bid for engineering, surveying and design services as presented in the original RFP to George E. Young at a cost of \$20,000.

The Commissioners met with Chief Administrative Officer Gerald T. Mason to review and discuss House Bill 1220, which would establish a Chesapeake Bay Green Fund to provide dedicated funding to implement the Tributary Strategies Program for the Chesapeake Bay by collection of a statewide impervious surface fee. Mr. Mason stated that the bill, if passed as written, could negatively impact Worcester County. He further noted that the Maryland Association of Counties (MACo) would meet to review HB 1220 on Wednesday, March 7, and requested the Commissioners direction on the position staff should take at the meeting. Development Review and Permitting Director Ed Tudor provided a synopsis of the bill and stated that the funds collected under the bill would be given to a wide variety of State agencies as well as the Chesapeake Bay Trust for a significant number of projects, including allocating funds to the Department of Housing and Community Development for incentives and grants to local governments to implement workforce housing. Mr. Tudor stated that while the overall goal of the bill is to protect the Chesapeake Bay, it ignores the Coastal Bays, is unfairly onerous to rural counties, will significantly raise construction costs, and be a nightmare to administer. He stated that while the bill provides a dedicated funding source for implementation of the Tributary Strategies for the Chesapeake Bay, it disproportionately hurts small rural counties in which a majority of the land area is not designated as priority funding areas (PFAs) and would, therefore pay \$2 per square foot of impervious area rather than \$0.25 per square foot as proposed within PFAs. He stated that the bill would create a burden on counties, requiring them to hire additional personnel to administer and report on the new program. He stated that while local governments may retain up to 5% of the fees collected for administration of the program, which should more than cover all associated costs, it would not alleviate the ill will and aggravation the bill would engender. Mr. Tudor also stated that the exorbitant fees associated with the program would have

a significant impact on construction costs and create a hardship on many residents. By way of example, Mr. Tudor stated that the typical impervious area for a single family dwelling in Ocean Pines ranges from 3,700 to 5,000 square feet, so landowners who want to develop lots located within a Priority Funding Area would be required to pay a Green Fund fee of between \$925 to \$1,250, but those outside of a Priority Funding Area would be required to pay fees from \$7,400 to \$10,000 for the same size house. He stated that two applications currently being processed for large homes with long driveways outside of a Priority Funding Area have much larger amounts of impervious area, totaling 15,435 square feet and 19,668 square feet, which would require them to pay Green Fund fees of \$30,870 and \$39,336 respectively. He stated that he would not want to be the Permit Clerk who has to inform those property owners of these fees. Mr. Tudor concluded that if the Green Fund fee was in place for the building of the Super Wal Mart on US Rt. 50 outside Berlin, and if this construction was on previously undeveloped land, the Green Fund fee would be \$2,867,990. Wal Mart would only be able to offset on 25% of those fees, resulting in a fee of \$2,150,992. Mr. Tudor concluded that while the bill has noble intentions, it is fraught with problems. He stated that Worcester County would be coughing up vast amounts of fees and receiving little if anything in return. Commissioner Church stated that if such fees were to be generated locally, they should be available for use locally. Following some discussion and upon a motion by Commissioner Church, the Commissioners unanimously agreed to write a letter to the local Delegation to voice their opposition to House Bill 1220 and encourage them to oppose it on our behalf.

Bob Mitchell, Deputy Director of Environmental Programs, stated that the large metropolitan counties would likely fight for passage of the bill to help fund needed infrastructure. Sandy Coyman, Director of Comprehensive Planning, suggested that the bill be amended to add the Coastal Bays and funds be applied for removing all impaired water bodies in the State from the Federal 303d list. Commissioner Shockley suggested staff develop a list of recommended amendments to the bill in case it appears that the bill will pass. Commissioner Church disagreed, stating that the Commissioners voted to oppose the bill.

Pursuant to the recommendation of Public Works Director John Tustin and upon a motion by Commissioner Shockley, the Commissioners unanimously awarded the low bid for portalet service to Atlantic Pumping, Inc. of Ocean City, Maryland at a yearly cost of \$16,491 for Part A (boat landings, solid waste transfer stations, roads shop, and firing range) and \$19,212 for Part B (passive and active parks) for a period of two years ending December 31, 2008.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Shockley, the Commissioners unanimously awarded the bid for propane fuel service for several County facilities located throughout the County to Sharp Energy of Pocomoke, Maryland at a mark up price of \$0.2099 per gallon for a period of two years beginning with the date of award and ending March 1, 2009.

The Commissioners met with Mr. Tustin to discuss the County's immediate need for storage space. Mr. Tustin stated that the exterior of the old Soil Conservation Building on US Rt. 113 in Newark could be re-skinned for about \$50,000, making the building suitable to meet the County's immediate storage needs. In response to a question from Commissioner Boggs, Chief Administrative Officer Gerald T. Mason stated that Habitat for Humanity had expressed interest

in acquiring the building; however, the County's immediate need for short and long term storage at this site takes precedence. Mr. Tustin advised that the project could get underway immediately and be complete within 30 to 45 days. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously agreed to waive the standard bid process and approve the proposal from Beauchamp Construction of Pocomoke, Maryland to re-skin the building at a cost of \$44,900 and provide electric door openers at an additional cost of \$1,375, and additional expenses of the department not to exceed a total cost of \$50,000. The Commissioners agreed to allocate money from the General Fund to complete the project.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Shockley, with Commissioner Cowger abstaining due to a potential conflict of interests, the Commissioners unanimously awarded the bid for the purchase of a 35 Ton Lowboy Trailer to Gomer Equipment of Pocomoke, Maryland for Option 2 (a new 2006 trailer less air ride suspension) at a cost of \$35,500.00.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Shockley, the Commissioners unanimously awarded the low bid for the replacement of both Bunting Bridge and Massey Crossing Road Bridge to Somerset Paving & Marine of Crisfield, Maryland to construct both bridges consecutively in 240 days as a single contract at a cost of \$563,000.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Boggs, the Commissioners unanimously approved bid specifications for Phase 1-A of the US Rt. 50 Service Road project. The scope of the project includes reconfiguring the existing alignment of Holly Grove Road, widening the portion to four lanes with the center lane for turning movements; double right off of Holly Grove, east bound to US Rt. 50; construction of the commercial entrance to the Dwight Finch property, to be reimbursed in full by Mr. Finch; extension of the existing shoulder down to the Purnell property, east of the Finch property; construction of a double left, west bound US Rt. 50 into the Service Road; and an extension of shoulder east bound from its existing terminus, as proposed at the Wal-Mart site to the intersection of Holly Grove Road. The estimated cost of construction is \$1,100,000, with approximately \$450,000 of improvements to occur within the US Rt. 50 right-of-way. Mr. Tustin stated that the County will also be installing all necessary infrastructure, empty conduits, etc., to provide for the future signalization of the US Rt. 50 and Holly Grove intersection once warranted by future development. He further stated that the signalization will be provided at the developer's expense as final connections are made from the Wal-Mart property to this intersection.

Pursuant to the recommendation of Assistant Chief Administrative Officer Kelly Shannahan and upon a motion by Commissioner Boggs, the Commissioners unanimously approved out-of-state travel for the following individuals to attend the National Hurricane Conference in New Orleans, Louisiana from April 2 - 6, 2007: Assistant Chief Animal Control Officer Susan Rantz; Emergency Services Director Teresa Owens; Fire Marshal Jeff McMahon; Public Works Director John Tustin and Public Works staff members Maintenance Supervisor

Ken Whited, Solid Waste Foreman Mike Mitchell, and Roads Supervisor Frank Adkins (Sunday - Wednesday only); Sheriff Charles Martin and Sheriff's Deputy Doug Dods; Development Review and Permitting staff members Building Administrator Tony de St. Hippolyte, and Building Plans Reviewer III Paul Miller, and County Administration staff members Public Information Officer Kim Moses (Wednesday - Friday only) and Assistant Chief Administrative Officer Kelly Shannahan (Wednesday - Friday only).

Pursuant to the recommendation of Mr. Tustin, and the written request of David Blazer, Director of the Maryland Coastal Bays Program, and upon a motion by Commissioner Shockley, the Commissioners unanimously approved the request to hold the Eighth Annual Osprey Sprint Triathlon at Public Landing on Saturday, October 6, 2007 and authorizing assistance from several County agencies, including Public Works, Tourism and Recreation and Parks. The event will include swimming, bicycling and running, and it will begin and end at the boat ramp at Public Landing.

The Commissioners further approved a written request from Crane Communications, Inc. to use the Public Landing pavilion as a rest stop for the 2007 Multiple Sclerosis MS150 Bike Tour on Saturday, June 9, 2007 from 7:00 a.m. to 4:00 p.m. Mr. Tustin stated that both organizations are aware of the Shoreline Protection project to be underway at Public Landing, which may cause some disruption to their activities.

The Commissioners met with Comprehensive Planning Director Sandy Coyman to review and discuss the United States Department of Agriculture's 2007 Farm Bill reauthorization. Mr. Coyman stated that United States Congressman Wayne Gilchrest held a series of town meetings to ask for input and advice from farmers, agricultural industry businesses, marketers, land and water conservationists, and those interested in or affected by the Farm Bill, which will be re-authorized this year. Mr. Coyman stated that the Department of Comprehensive Planning had been invited to comment on the proposed bill. He outlined several proposed comments in support of the legislation, which will provide for the following: spurring additional private investment in advanced and environmentally responsible renewable energy research and development; increased funding for conservation programs authorized by the Farm Bill, including the Wetlands Reserve Program, Conservation Security Program, Conservation Reserve Program, Environmental Quality Incentive Program, Farm and Ranch Land Protection Program, and Wildlife Habitat Incentive Program, which are all heavily used in Worcester County by farmers and play a vital role in restoring and protecting Maryland's Coastal Bays and the Chesapeake Bay; and expanding programs for regional innovation, entrepreneurial development and asset building for rural people. Commissioner Shockley expressed grave concern with the Farm Bill as written, most notably plans to remove vast acreage out of farm production that are vital to the nation's efforts to increase alternative fuel supplies, including ethanol and soy diesel. Following some discussion, a motion by Commissioner Boggs to take no position on the Farm Bill was introduced but later withdrawn. Following further discussion and upon a motion by Commissioner Busick, the Commissioners unanimously directed Commissioner Shockley to draft a letter to the editor outlining staff and Commissioners concerns for review at their next meeting.

The Commissioners reviewed House Bill (HB) 964, Atlantic Coastal Bays - Dredging of Oysters and Clams Prohibition, which would prohibit the use of dredging to catch or attempt to catch oysters and clams in the Atlantic Coastal Bays area and further prohibit the use of a hydraulic clam dredge, power dredge, or other mechanical means of clamming and oystering in the Atlantic Coastal Bays. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously authorized Commission President Purnell to sign a letter of support for HB 964.

Pursuant to the recommendation and motion by Commissioner Shockley, the Commissioners agreed to support Senate Bill 518, known as the "Castle Doctrine" which authorizes citizens to protect their property and prohibits criminals from filing suit against property owners if they are injured while committing a crime.

Commissioner Cowger discussed a recently published Letter the Editor, which alleged that he and other Commissioners had not weighed in publicly regarding issues pertaining to the intersection of US Rt. 113 and MD Rt. 12. Commissioner Cowger reiterated that decisions made by the Board along with subsequent meetings between various Commissioners and State officials are in fact representative of the entire Board and not merely reflective of the views of just one or two County Commissioners. Commissioner Purnell agreed that the Board speaks in one voice on such matters.

The Commissioners answered questions from the press, after which they adjourned for lunch at the County Jail with Board of Elections Supervisors Kay Ann Hickman, Isabelle Redden, Hinson Finney, and James Starr, and Election Director Patricia Jackson and staff member Teresa Riggin to discuss polling places for the 2008 Presidential Election cycle.

Commissioner Shockley stated that there was a need for an additional polling place in District Four in the Libertytown area. He stated that the next closest polling place is 15 miles from Libertytown, placing an unnecessary burden upon those who want to vote. In response to a question from Mr. Finney, Commissioner Shockley suggested using Faith Chapel Presbyterian Church on Ironshire Road in Libertytown as a polling place. Following much discussion, the Board of Elections Supervisors agreed to look into the possibility of using the Faith Chapel Presbyterian Church for future elections.

Commissioner Cowger stated that residents in Pocomoke had expressed concern with the polling places there as well. He explained that two adjacent schools serve as the polling places in Pocomoke, and residents have been confused determining which of the schools is their designated polling place. He asked if the two locations could be combined to alleviate confusion. Ms. Jackson stated that State regulations limit the number of voters per polling location to 1,500, and merging the two locations would force them to exceed that number. She further stated that each registered voter receives a post card telling them where to go to vote. She stated that they could expand their public relations efforts to try to alleviate any confusion.

Mr. Starr advised Commissioner Boggs that the new Ocean Pines Community Center currently under construction was being considered as a possible future polling place. Commissioners Church and Purnell thanked the Board of Elections Supervisors for their work in making this year's elections run smoothly. Commissioner Church stated that the 2006 elections

were continued confirmation that every vote counts. Following further discussion, Commissioner Purnell thanked the members of the Board of Elections Supervisors for meeting with them.

The board adjourned to meet again on March 20, 2006.