

Minutes of the County Commissioners of Worcester County, Maryland

March 18, 2008

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

Following a motion by Commissioner Boggs, seconded by Commissioner Gulyas, 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 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; Sonny Bloxom, County Attorney; Kim Moses, Public Information Officer; Kim Johnson, Budget Accountant; George Bradley, Human Resources Director; and Ray Hoy, Wor-Wic Community College President. Topics discussed and actions taken included: hiring William Bradshaw as County Engineer for Public Works; appointing Toni Keiser to the Local Management Board, Kevin Douglas to the Ethics Board, and appointing Sylvia Sturgis and Cynthia Malament and reappointing Helen Richards and Gloria Blake to the Commission on Aging Board of Directors; reviewing potential and pending litigation; receiving legal advice from counsel; and performing executive actions.

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

The Commissioners reviewed and approved the minutes of their March 4, 2008 meeting, as amended.

The Commissioners presented a plaque to outgoing President James L. Purnell, Jr thanking him for the past two years of service as President of the County Commissioners.

The Commissioners met with Public Works Deputy Director John Ross to receive public comment on the proposal to dispose of surplus vehicles and equipment by auctioning these items on GovDeals.com.

Commissioner Shockley opened the floor for public comment.

Attorney Jacqueline A. M. Delisle, representing vehicle auctioneer Chuck Wenzel, advised that State law requires vehicles being sold to be State inspected and certified. She stated that in procurement disposals the auction is conducted publicly by wholesalers who would then

be required to complete the inspection and certification process. However, with online auctions the County becomes the seller and could be held liable if problems arise with any uncertified vehicles after they are sold. County Attorney Sonny Bloxom agreed and stated that the County would need to determine appropriate conditions of sale in order to comply with State law.

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

Upon a motion by Commissioner Boggs, the Commissioners unanimously approved the list of vehicles and equipment as County surplus property to be sold online at www.GovDeals.com pending the findings of Mr. Bloxom regarding the proper conditions of sale to ensure compliance with State law regarding inspection of surplus vehicles.

Marty Pusey, Director of Prevention Services for the Health Department, updated the Commissioners on the status of the Prescription Drug Discount Program, which is set to launch in Worcester County on Wednesday, March 19, 2008. Ms. Pusey outlined the program, stating that it is a discount card, not a prescription program, and was designed for uninsured and under-insured county residents. She advised that through a partnership with Caremark and the National Association of Counties (NACo), this simple discount card would be available to all regardless of their age or income and could save residents an average of 22% off the full retail cost of prescription medication, with average savings ranging from 13% to 34%. Ms. Pusey stated that there are no costs to the County for participating in the program, everyone is eligible, and consumers always receive the lowest retail price. She stated that Baltimore, Carroll, Cecil, Dorchester, Frederick, Howard, Montgomery, Prince George's, Queen Anne's, Talbot and Wicomico Counties are already participating in the program. She explained that the prescription card would be available at Worcester County Government and Health Department offices, libraries, senior centers, Atlantic General Hospital, pharmacies and other locations throughout the County. Ms. Pusey advised that nearly all of the pharmacies in Worcester County have agreed to participate in the program, and stated that the discount card can even be used to purchase pet prescriptions, provided the medication being prescribed is stocked in participating pharmacies. Following some discussion, the Commissioners thanked Ms. Pusey for the presentation and for their hard work in getting this program started in Worcester County.

The Commissioners discussed the request made by Claudia Nagel, Executive Director of Diakonia, Inc. in West Ocean City, at the Commissioners meeting on March 4, 2008 for additional County funding of \$65,000 to cover shortfalls in Diakonia's FY08 budget. Commissioner Gulyas stated that the County could not grant the full request but felt the Commissioners should provide the shelter with a one-time contribution of \$30,000. Commissioner Church stated that Diakonia provides a service unlike that of other nonprofit organizations in the County and preferred to grant them closer to the \$65,000 they requested. Commissioner Cowger concurred, stating that Diakonia affects people's lives who are in dire need, and the County can't let Diakonia close its doors. He stated that this was not a "bricks and mortar" request, and the Commissioners should step up to the plate and help. He stated that Diakonia operates at a cost of \$25,000 a month, and agreed that in FY09 the organization must scale back its budget; however, \$30,000 would not be enough. Commissioner Boggs stated that she supports Diakonia's mission, but pointed out that the community is aware of Diakonia's need

and should help with monetary donations. She stated that Diakonia has begun to rely too heavily on County funding to cover its burgeoning budget. Commissioner Busick stated that Diakonia serves residents from towns in Wicomico and Worcester Counties, so the towns should also help cover budget shortfalls. She stated that Diakonia must also focus more heavily on fundraising efforts. Commissioner Purnell agreed that the County should help cover a portion of the budget shortfall. Following much discussion and upon a motion by Commissioner Gulyas, the Commissioners voted 5-2, with Commissioners Church and Cowger voting in opposition, to provide a one-time contribution of \$30,000 to Diakonia. Commissioners Church and Cowger stated that they voted in opposition to the motion only because they felt that \$30,000 was not enough to help carry Diakonia through this financial crisis.

Danny Holland, President of the Worcester County Farm Bureau (WCFB) which represents over 200 of the 403 county farmers, asked the Commissioners to support the WCFB in its opposition to newly proposed State regulations on Maryland Animal Feeding Operations (MAFO), which would apply to large animal feeding operations and poultry facilities over 75,000 square feet in area and would regulate surface and groundwater discharge. Mr. Holland stated that the WCFB has three primary concerns with the new regulations. First, the WCFB would like to have the requirement for farmers to submit Comprehensive Nutrient Management Plans (CNMP) removed from the regulations. He stated that large poultry farmers would be required to complete a CNMP at a cost of roughly \$8,000 every three years. He stated that such a requirement was unduly burdensome and cost prohibitive. Mr. Holland stated that following the institution of the 1998 Water Quality Act, the vast majority of Maryland farmers began implementing Best Management Practices (BMP), which were responsible for significantly decreasing nutrient runoff and improving water quality. Secondly, the WCFB opposed initial enforcement by the Maryland Department of the Environment (MDE), favoring instead for initial compliance to be sought by the Maryland Department of Agriculture and only to bring MDE in for enforcement actions if voluntary compliance is unsuccessful. Thirdly, the WCFB proposes that all MAFO regulations include funding from the State for implementation. In response to a question by Commissioner Boggs, Mr. Holland stated that the WCFB plans to ask for support from both Somerset and Wicomico Counties also. Commissioner Gulyas stated that farmers are the first environmentalists. Following some discussion, the Commissioners unanimously agreed to send a letter to MDE in support of the WCFB position on MAFO regulations and authorized Commissioner Shockley to speak in support of the WCFB's recommendations at a public meeting on the matter at Wor-Wic Community College on Monday, March 24, 2008.

The Commissioners met with Ed Todd of Todd & Associates, Inc. Architects to review bid recommendations for construction of the new Worcester County State's Attorney Building. Mr. Todd reviewed the bid recommendations and proposed alternates, and recommended awarding the low bid of \$2,389,521.00, including a deduction of -3,954.00 for Alternate No. 1 (delete motorized projection screen) and an additional \$14,300.00 for Alternate No. 6 (demolition of house and garage), for a total cost of \$2,399,867.00 to Southern Builders, Inc. of Salisbury, MD. Commissioner Cowger stated that he was pleased to see the price come in nearly \$1 million lower than the estimate. However, he stated that he had received complaints from the second lowest bidder that Southern Builders had failed to submit all the required information

prior to the bid deadline and suggested that the bid be rejected and the project awarded to the second low bidder, Nason Construction of Salisbury, Maryland at a cost of \$2,447,400. In response, Mr. Todd stated that Southern Builders submitted all information pertinent to the bid itself prior to the deadline, but submitted a copy of the organization's business license and two affidavits an hour and a half after the bid deadline. He stated that the late submission had no affect on the project cost or the scope of work to be completed, and the County would save nearly \$50,000 by accepting the low bid. County Attorney Sonny Bloxom concurred that the failure to include the required document was only a minor technicality, which did not affect the bid price and could be waived. Following some discussion and upon a motion by Commissioner Church, the Commissioners voted 6-1, with Commissioner Cowger voting in opposition, to award the low bid to Southern Builders as recommended at a total cost of \$2,399,867.

The Commissioners met in Legislative Session.

The Commissioners met with Development Review and Permitting Director Ed Tudor to review draft legislation that was prepared by staff to make spray irrigation systems operated by the County or a municipality in the County more feasible by reducing setbacks and allowing certain facilities by right in several zoning districts. He stated that these new regulations would help to implement a major recommendation of the Comprehensive Plan. Mr. Tudor advised that both the Planning Commission and County staff favorably recommended the proposed legislation. Following some discussion, Commissioners Boggs, Busick, Church, Cowger, Gulyas, Purnell and Shockley introduced the aforementioned proposed bill as Bill 08-1 (Zoning – Spray Irrigation Facilities). The Commissioners unanimously agreed to hold the public hearing on the bill during their special legislative session on April 22, 2008.

The Commissioners reviewed draft legislation that was prepared at their request to abolish the Worcester County Plumbing Board in recognition that the licensing responsibilities of this board have been assumed by the State Board of Plumbing. Commissioner Boggs advised staff to send letters to all of the plumbers serving on this board to advise that the Commissioners are considering disbanding the board and providing them with the opportunity to speak in favor or opposition of the proposed bill. Following some discussion, Commissioners Boggs, Busick, Church, Cowger, Gulyas, Purnell and Shockley introduced the aforementioned proposed bill as Bill 08-2 (Building Regulations - Plumbing Standards). The Commissioners unanimously agreed to hold the public hearing on the bill during their special legislative session on April 22, 2008.

The Commissioners closed the legislative session.

Pursuant to the request of Housing Program Administrator Jo Ellen Bynum and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved bid specifications for two housing rehabilitation projects in the Snow Hill and Pocomoke City areas, using the County's existing Community Development Block Grant (CDBG) funds and State Special Loans Program (SSLP) funds.

Pursuant to the request of Ms. Bynum and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved bid specifications to demolish a structurally unsound home and construct a replacement home on the same site using the County's existing CDBG funds and SSLP funds. In response to a question by Commissioner Boggs, Ms. Bynum advised

that the existing home will not be demolished until the replacement home has been constructed, thereby preventing the occupants from having to seek temporary housing.

Pursuant to the recommendation of Budget Accountant Kim Johnson and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved the renewal of a pass-through three-year Crisis Shelter Home Program Grant for homeless women through the State Department of Human Resources Office of Transitional Services to Diakonia, Inc. in the amount of \$73,671.00 or \$24,557 per year for the period of FY09 through FY11.

The Commissioners met with Budget Officer Kathy Whited to review and discuss the Mosquito Control Program for FY09. Ms. Whited advised that the State has reduced its share of funding for mosquito control from 50% to 45%. Therefore, Ms. Whited presented the Commissioners with three cost-sharing options as follows: Option A - State 45%, County 27.5% and local 27.5%; Option B - State 45%, County 25% and local 30%; or Option C - State 45%, County 30% and local 25%. Following some discussion and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved Option B for Mosquito Control in Worcester County for the 2008 season, which requires County funding in the amount of \$179,200, local community funding of \$96,680 and State funding of \$241,920.

The Commissioners reviewed the Residential Lease Agreement from May 15 to September 16, 2008 for an apartment located in Mallard Landing in Ocean City to house the HOT Boards Assessment Unit Physicians for the Ocean City Youth Health Center during summer 2008. Commissioner Church stated that given current economic conditions, he saw no justification for the landlord to increase the rent from \$8,000 to \$11,000. The Commissioners concurred. Mr. Bloxom stated that the Residential Lease contained several typos that should be corrected. Upon a motion by Commissioner Gulyas, the Commissioners unanimously remanded the matter back to the Health Department to renegotiate the cost of the lease and to correct typos in the Residential Lease agreement.¹

Pursuant to the written request of Toby Fambro, Agency Procurement Specialist I for the Health Department, and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved the bid specifications requesting proposals for Cytology Services for the processing of all liquid-based gynecological cytology specimens and breast smears collected by the Worcester County Health Department for FY09.

Pursuant to the written recommendation of Public Works Director John Tustin in response to the written request of the U.S. Army Corps of Engineers (COE) and upon a motion by Commissioner Gulyas, the Commissioners agreed to inform the COE that they have no objections to the proposed Federal navigation dredging project in the Isle of Wight Channel

¹Upon clarification by Health Officer Debbie Goeller that this lease was for a different unit than the prior year that would better meet the requirements of the physicians, which explained the higher cost, the Commissioners authorized Commission President Shockley to sign the lease.

located at Ocean City to provide a channel 6 feet deep and 125 feet wide from the inlet channel to a point opposite north Eight Street in Ocean City, then 75 feet wide into Isle of Wight Bay, with approximately 20,000 cubic yards of material to be dredged to restore the existing channel plus 2 feet allowable over-depth, which includes plans to dispose of a portion of the dredged materials on the beach at 33rd Street in Ocean City. Public Works Deputy Director John Ross stated that the Town of Ocean City is willing to accept the dredged material via the existing storm drain at 33rd Street and place the material on the beach. The project is scheduled to take place in October or November, 2008.

Pursuant to the written recommendation of Mr. Tustin in response to a written request from Crane Communications, Inc. and upon a motion by Commissioner Purnell, the Commissioners unanimously approved the use of the Public Landing pavilion as a rest stop for the 2008 Multiple Sclerosis MS150 Bike Tour on Saturday, June 7, 2008 from 6:00 a.m. to 4:00 p.m. Mr. Ross stated that improvements being completed at Public Landing should be complete prior to the event, but that organizers would be made aware of the potential conflict.

Mr. Ross met with the Commissioners to review potential financing for projects that would directly affect Mystic Harbour Service Area customers as follows: construction of the North Side Water Tower behind the White Marlin Mall in West Ocean City; rehabilitation of the Oyster Harbor Water Plant (OHWP); and replacement of the Mystic Harbour Wastewater Treatment Plant (MHWWTTP). Mr. Ross stated that the approximate cost of \$1,100,000 for the proposed North Side Water Tower, with a growing customer base, should be manageable. He stated that funding for the project could come from existing reserve funds and State Revolving Loan Funds (SRLF); however, if the SRLF application is not approved, the funds could be included in the next County bond issue. In response to a question by Commissioner Shockley, Mr. Ross stated that the County has received numerous request for public water from residents and commercial businesses located on U.S. Rt. 50, and advised that he felt confident the customer base would grow large enough within the next five years to make the project feasible. Regarding the Oyster Harbor Water Plant, Mr. Ross stated it would cost approximately \$600,000 to complete rehabilitation work to restore the facility for use as a supplemental supply facility in the West Ocean City area. He advised that in 2006 the County rejected a bid in the amount of \$900,000 to repair the plant. In response to a question by Commissioner Gulyas, Mr. Ross stated that the County had developed a plan to provide 1,000 equivalent dwelling units (EDUs) of good, potable water from the OHWP and the wells and permits are already in place. Mr. Ross stated that while the two water projects require a significant outlay of capital, the construction could be completed without increasing customers' water bills by more than \$12 to \$14 per quarter and that cost would decrease as new customers connect to the system or if loan funds are approved through the SRLF. Following some discussion and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized staff to proceed with plans for the construction of the new water tower and rehabilitation of the OHWP and concurred with the proposed financing plan.

Commissioner Purnell left the meeting.

Mr. Ross reviewed plans to replace the existing MHWWTTP with a new facility located at the existing site at an estimated cost of \$5.4 million along with an estimated \$1.35 million in

contingency and design allowance, bringing the total projected cost to \$6.75 million. Mr. Ross advised that the proposed improvements would be considerably more challenging to fund than the two water issues because the cost is significantly higher and the customer base is smaller. He stated that using the same funding formula for the two water issues, the debt service for sewer would be \$150 per quarter. He stated that if funding is available through the SRLF the EDU charge would be reduced to approximately \$105 per quarter or \$420 annually. Mr. Ross stated that the County could apply for a low interest loan from the United States Department of Agriculture or Maryland Department of the Environment loan funds. He stated that the County could also design the new plant to include 300 to 400 additional EDUs and sell the excess capacity to help reduce costs as much as \$3 to \$5 million while only increasing the plant cost marginally, resulting in an annual EDU charge of \$150 to \$170. Mr. Mason stated that the plant is old and the County has received complaints about its condition for many years. He stated that the plant can no longer be repaired and must be replaced. Commissioner Church stated that the new plant should be built on another site. Commissioner Boggs disagreed, stating that relocating the plant would likely meet with opposition. Following some discussion and upon a motion by Commissioner Church, the Commissioners voted 5-1, with Commissioner Boggs voting in opposition, to move forward with plans to replace the MHWWT, but to explore the possibility of locating the new plant on another site.

Pursuant to the recommendation of Mr. Ross and upon a motion by Commissioner Cowger, the Commissioners voted unanimously to award the proposal for the design of the Mystic Harbour Water Tower to EA Engineering of Sparks, MD at a cost of \$26,885.88.

Pursuant to the recommendation of Mr. Ross and upon a motion by Commissioner Church, the Commissioners voted unanimously to award the proposal for evaluation and design of the rehabilitation of the Oyster Harbor Water Plant to URS Corporation of Wilmington, Delaware at a cost of \$22,454.74.

The Commissioners reviewed the written scope of work and cost proposal for preliminary design of the Mystic Harbour Wastewater Treatment Plant (MHWWT) and agreed to postpone any action on the matter until staff returns with results of their investigation of an alternative site for construction of the MHWWT.

Pursuant to the recommendation of Mr. Ross and upon a motion by Commissioner Church, the Commissioners unanimously authorized Bearing Construction of Sudlersville, MD to complete the tasks for the rehabilitation of West Ocean City Pump Station Number 1 as follows: \$34,840 for the installation of new pumps; \$5,610 for the replacement of flow meter valves; and \$24,776 to complete a Bypass Connection. Mr. Ross stated that the installation of the bypass connection would enhance the original design and is required to be installed at all new stations near coastal waters to protect shellfish. He further stated that the final cost of this project, even with the enhancements, came in under the original budget of \$300,000 and was significantly less than the original low bid of \$574,860 which was received in July, 2007 and rejected by the County.

Pursuant to the request of Mr. Ross and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved bid specifications for the construction of a water tower in the Newark Service Area.

Mr. Mason reminded the Commissioners about the 2008 Maryland's Most Beautiful People Awards Banquet to recognize local volunteers to be held at the Ocean Pines Yacht Club at 5:30 p.m. that evening.

The Commissioners reviewed and approved the issuance of a press release informing the public that the Maryland Department of the Environment (MDE) had reconsidered their prior decision and agreed to exempt the Ocean Pines Wastewater Treatment Plant (OPWWTP) and ratepayers in the Ocean Pines Sanitary Service Area (OPSSA) from paying the Bay Restoration Fund (BRF) fee. To qualify for exemption from the BRF fee, a sewer facility may not exceed a maximum annual average effluent concentration of 3.0 milligrams per liter (mg/l) of total nitrogen and 0.3 mg/l of total phosphorous. Due to exceptionally low temperatures in early 2007, the average nitrogen level of effluent from the OPWWTP increased to 8.75 mg/l in February and 5.76 mg/l in March 2007 which skewed the annual average. As a result, MDE officials advised the county on February 15, 2008 that residents in the OPSSA would not be exempt from paying the BRF fee this year. In his recent letter dated March 10, 2008, Walid M. Saffouri, P.E., Bay Restoration Fund Division Chief for the Maryland Department of the Environment (MDE), stated that after being advised by the county of the extenuating circumstances last year and that the nitrogen levels were again at lower levels, averaging 2.3 mg/l in January 2008 and 2.9 mg/l in February 2008, MDE agreed to remove the measurements from February 2007 from the annual average, since it is technologically not feasible to design or operate an Enhanced Nutrient Removal (ENR) facility to remove nitrogen to the level of 3.0 mg/l when temperatures drop below 12 degrees Celsius, yielding a nitrogen concentration of less than 3.0 mg/l for the year. The Commissioners expressed their appreciation of MDE for their willingness to reconsider the matter and restore the exemption to those living in the OPSSA. Commissioner Boggs expressed her delight that the County retained their bragging rights for operating the cleanest WWTP in the State and the only government facility exempt from the BRF fee.

John Burrell of Local Government Insurance Trust (LGIT) presented the County with a plaque in recognition of twenty years of membership in the trust, from 1987 through 2007. He also commended the County for sending over 300 employees to LGIT training sessions in the past year, which has increased safety within County Government.

The Commissioners answered questions from the press, after which they adjourned to meet again on April 8, 2008.