

Minutes of the County Commissioners of Worcester County, Maryland

July 22, 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 Gulyas, seconded by Commissioner Purnell, 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),(3), (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; and George Bradley, Director of Human Resources. Topics discussed and actions taken included: considering the request to reclassify one Library Associate from part-time to full-time; appointing Reverend Ronnie White and reappointing Reverend Greg Powell and E. Nadine Miller to the Social Services Board, nominating Lawrence Downs for appointment to the Wor-Wic Community College Local Advisory Council; considering acquisition of real property for public purposes; 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 July 1, 2008 meeting, as presented.

The Commissioners presented a retirement commendation to Margaret Jackson for serving the Worcester County Treasurer's Office for 25 years and thanked her for her years of dedicated service to the County.

Pursuant to the recommendation of Finance Officer Harold Higgins and upon a motion by Commissioner Church, the Commissioners unanimously adopted Resolution No. 08-15, Authorizing a 100% Tax Credit for Real and Tangible Personal Property owned by the Berlin Community Improvement Association (BCIA) for such property which was exclusively for non-profit activities of BCIA for the July 1, 2008 tax year.

Pursuant to the recommendation of Mr. Higgins at the request of Melanie A. Pursel,

Executive Director of the Ocean City Chamber of Commerce, and upon a motion by Commissioner Gulyas, the Commissioners unanimously adopted Resolution No. 08-16, authorizing a 100% tax credit for real property owned by The Greater Ocean City, Maryland Chamber of Commerce, Inc. for the July 1, 2008 tax year.

Pursuant to the request of Local Management Board (LMB) Director Michael Dyer and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized the LMB to sign the revised Agreement of Lease between Snow Hill Riverfront LTD. Partnership (Lessor) and LMB (Lessee) to rent a portion of the building located at the corner of Commerce Street and Bank Street in Snow Hill for 40 months commencing June 15, 2008 and ending October 14, 2011 at a cost of \$14,400.00 per year. Mr. Dyer advised that all lease costs would be paid with funds from the Governor's Office for Children.

Pursuant to the request of Mike Pennington, Executive Director of the Tri-County Council (TCC) for the Lower Eastern Shore, and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Shockley to sign a letter supporting the TCC's request to be designated as an Economic Development District (EDD) by the U.S. Economic Development Administration.

Pursuant to the request of Lieutenant Lee Holloway of the Sheriff's Office and upon a motion by Commissioner Cowger, the Commissioners unanimously authorized President Shockley to sign the annual Child Support Enforcement Administration Cooperative Reimbursement Agreement Application, which provides annual funding from the Maryland Department of Human Resources Child Support Enforcement Administration to the Sheriff's Office in the amount of \$84,000 less a local share of \$28,560 and a \$3,173 Administrative Fee for total funding of \$52,267 for the period of October 1, 2008 through September 30, 2009 for their assistance with child support enforcement activities.

Pursuant to the recommendation of Prevention Services Director Marty Pusey and the written recommendation of Health Officer Debbie Goeller and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Shockley to sign the FY09 Maryland Highway Safety Office Community Traffic Safety Program Project Agreement and a Budget Modification for Project Agreement for FY08, which reduces the amount awarded in FY08 by \$2,000 as funds for specified training were not used, which brings the FY09 total funding for highway safety programs to \$141,900.00. In response to a question by Commissioner Gulyas, Ms. Pusey explained that none of the enforcement agencies took advantage of the proposed training because it would have required a significant amount of time to complete.

Pursuant to the request of Emergency Services Director Teresa Owens and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Shockley to sign the Memorandum of Agreement between Maryland Emergency Management Agency (MEMA) and Worcester County regarding FFY2007 Public Safety Interoperable Communications Grant Program for funds of \$2,000,000 and authorizing Ms. Owens to manage the grant for the other Eastern Shore partners. In 2003, Worcester County was one of only 74

jurisdictions in the nation to be awarded a \$5,629,013 Interoperability Grant through the Department of Homeland Security (DHS) and the Department of Justice (DOJ) Emergency Preparedness and Response Directorate to complete a demonstration project to provide public safety communications connectivity between various radio systems used by the nine Eastern Shore counties of Maryland and the municipalities therein. The MEMA grant will be used to continue to improve communications within this network and specifically to install new sites at Klej Grange in Worcester County, Vienna in Dorchester County, Centerville in Queen Anne's County, and Chestertown in Kent County.

Pursuant to the request of Ms. Owens and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved out-of-state travel for Emergency Management Planner David Fitzgerald to attend training provided by Sungard-Open Software Solutions, Inc. on the latest enhancements in computer aided dispatch software in High Point, NC from September 22-25, 2008.

The Commissioners held a public hearing to obtain the views of citizens on an application to be submitted to the Maryland Department of Business and Economic Development (DBED) under the Small Cities Community Development Block Grant (CDBG) Program for funds of \$500,000 to be used to develop a restaurant at the Delmarva Discovery Center (DDC) in Pocomoke City. Economic Development Director Jerry Redden summarized the proposal and advised that CDBG funds could be used to construct the exterior of the restaurant, while the interior would be completed by an as yet to be determined restaurateur who will lease the facility. He advised that the proposed restaurant could operate independently of the DDC and would enhance the economic growth of Pocomoke.

Commissioner Shockley opened the floor to receive public comment.

Gary Weber of Snow Hill supported the filing of the CDBG application as proposed.

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

Upon a motion by Commissioner Cowger, the Commissioners unanimously adopted Resolution No. 08-17 authorizing the filing of a CDBG application to fund development of a restaurant at the Delmarva Discovery Center in Pocomoke City, Maryland.

Pursuant to the request of Fire Marshal Jeff McMahon and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized the encumbrance of \$3,500 remaining in the FY08 Fire Marshal's budget to purchase Class "A" uniforms for sworn Fire Marshal personnel.

The Commissioners held a public hearing on Rezoning Case No. 391, which had been filed by Hugh Cropper, IV, attorney, on behalf of Oak-Kwang Park and Soon-Ae Park, property owners, for an amendment to the Official Zoning Maps to rezone approximately two acres, which is part of a larger 3.2-acre plot of land located on the easterly side of MD Rt. 589 (Racetrack Road) to the north of Gum Point Road in the Third Tax District of Worcester County, MD, from A-1 Agricultural District to B-2 General Business District. Staff members present at the hearing were Edward A. Tudor, Director of Development Review & Permitting, and Phyllis

Wimbrow, Deputy Director of Development Review & Permitting. Sonny Bloxom, County Attorney, informed the public of the procedures in rezoning cases. He then swore in those individuals who planned to give testimony during the hearing. Ms. Wimbrow entered the Planning Commission's Findings of Fact into the record and 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 1992 Comprehensive Rezoning. Ms. Wimbrow further stated that in consideration of its findings and the testimony presented to the Planning Commission, the commission members found that there was a mistake in the existing zoning of the petitioned area, and that a change in zoning would be more desirable in terms of the objectives of the Comprehensive Plan. The Planning Commission found that the petitioned area's immediate environs have long been a commercial center serving both the community and those traveling on MD Rt. 589. Therefore the Planning Commission recommended approval of the proposed rezoning from A-1 to B-2.

Commissioner Shockley opened the floor for public comment.

Hugh Cropper, attorney for the applicant, stated that he had represented Van Caffi, owner of the adjoining property to the south (Parcel 34) when his property was rezoned to B-2 in Rezoning Case No. 323 in 1995. He noted that this commercial area along both sides of MD Rt. 589 to the north of Gum Point Road, including the Caffi property, was given a B-1 Neighborhood Business District in the 1992 Comprehensive Rezoning. He further noted that in 1995 the Commissioners approved the rezoning of Mr. Caffi's frontage property back to B-2 as well as the remaining agriculturally zoned portion of Mr. Caffi's property and also rezoned several other properties in the immediate vicinity from B-1 and A-1 to B-2 at that time. That action placed a B-2 designation on the Park's property to a depth of approximately 450 feet or two-thirds of their property, leaving the easterly rear portion of the property zoned A-1. Mr. Cropper noted that the same bisecting zoning line which was previously removed from Mr. Caffi's property bisects the current petitioned area. He asserted that the remainder of Parcel 15 should have been rezoned in its entirety in 1995 along with Mr. Caffi's property because the same conditions were present. Mr. Cropper stated that the Park's property is rectangular in shape, and due to setback requirements, the portion of the property zoned A-1 was not suitable for agricultural use. He further stated that this is the only property with a bisecting zoning line in the area.

Robert Hand, Land Planner, stated that virtually all of the Park's property was located within the Comprehensive Plan's Commercial Center land use category and that while the small portion of the property zoned A-1 was located within the Atlantic Coastal Bays Critical Area, it had been classified as being an Intensely Developed Area. He stated that the long, narrow configuration of the property would make it extremely difficult to utilize the petitioned area for agricultural purposes. He concluded that the proposed rezoning would not cause a significantly greater commercial use because the road frontage of the property is already zoned commercially. Rather, the proposed rezoning would merely allow for the development of a better commercial project.

Gary Weber of Snow Hill endorsed the proposed rezoning, as both the Planning Commission and County staff had agreed that a mistake had been made in the zoning maps. He urged the Commissioners not to postpone their decision on whether to rezone the property until their discussions on the Comprehensive Rezoning scheduled for later this year.

Edward Lee of Snow Hill advocated his support of the applicant's rezoning request. He stated that based on the surrounding zoning it would be inherently unfair not to grant the request.

Commissioner Boggs stated that she didn't see any urgency to rezone the property now and would prefer to consider the request when the Commissioners undertake the Comprehensive Rezoning in December.

Commissioner Gulyas stated that she did not feel it was appropriate to approve rezoning of the property at this time. In response to a question by Commissioner Gulyas, Mr. Bloxom clarified that both the B-2 and A-1 zoned areas were part of the same parcel, but were bisected by a zoning line. Mr. Bloxom encouraged the Commissioners to act on the request based upon the evidence presented at the hearing rather than waiting for the Comprehensive Rezoning. In response to another question by Commissioner Gulyas, Ms. Wimbrow stated that it was unlikely that approving the proposed rezoning would open a floodgate of rezoning requests in the area.

In response to a question by Commissioner Cowger, Mr. Tudor stated that DRP would prefer if the Commissioners acted on this request now rather than to wait.

Commissioner Church stated that the Planning Commission unanimously agreed that a mistake had been made, and therefore it should be corrected.

In response to a question by Commissioner Busick, Mr. Tudor stated that the zoning maps were created with the use of ariel photography, and the portion of the Park's property zoned A-1 lined up with a wooded section in the area already zoned A-1, which may be why the entire parcel of property was not rezoned to B-2. He further stated that the Parks could not use the A-1 zoned portion of their property to provide parking or other uses associated with the use of the portion zoned B-2. Ms. Wimbrow concurred, stating that the A-1 portion of the property lined up very neatly with the rear property line of the other parcels zoned A-1. She further advised that a change in zoning would not affect provisions for installing a septic system on the property.

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

After some discussion, and upon a motion by Commissioner Cowger, the Commissioners voted 5-2, with Commissioners Boggs and Busick voting in opposition, to approve the rezoning based upon a mistake in the existing zoning.

The Commissioners met in Legislative Session.

The Commissioners held a public hearing on Emergency Bill 08-4 (Subdivision - Plat Requirements), which was introduced by Commissioners Boggs, Busick, Church, Gulyas, Purnell and Shockley on June 17, 2008. Mr. Tudor reviewed the proposed bill, which revises the required size for subdivision plats, with the maximum plat size to be no larger than 24 inches by 36 inches and the minimum plat size to be no smaller than 8.5 inches by 11 inches. Mr. Bloxom stated that this new provision is consistent with current requirements of the Land Records Division in the Court House.

Commissioner Shockley opened the floor to receive public comment.

Edward Lee of Snow Hill asked for clarification on the provisions of this bill. Mr. Tudor reiterated that the bill establishes new minimum and maximum subdivision plat sizes.

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

Upon a motion by Commissioner Gulyas, the Commissioners voted unanimously to adopt Emergency Bill 08-4 as presented.

The Commissioners held a public hearing on Bill 08-5 (Zoning - Temporary Political Signs), which was introduced by Commissioners Boggs, Busick, Church, Gulyas, Purnell and Shockley on June 17, 2008. Mr. Tudor reviewed the proposed bill, which amends the Zoning and Subdivision Control Article to remove certain time limitations on the display of political campaign signs. The legislation was drafted by County staff in response to a letter from the American Civil Liberties Union (ACLU), which referenced a recent Federal District Court decision on a case filed by the ACLU against Baltimore County, which like Worcester County, restricted the length of time that political campaign signs could be displayed. The Court found that the signs were a form of protected speech and any time limits on their display were, therefore, unconstitutional. In response to a question by Commissioner Shockley, Mr. Tudor stated that under the proposed legislation political signs could be left up indefinitely. Commissioner Shockley expressed concern about clutter in people's yards if signs are not removed. Mr. Bloxom agreed, but stated that the law must be revised in order to satisfy the ACLU's concerns and avoid a similar lawsuit and award of attorney's fees which totaled nearly \$70,000 in the Baltimore County case.

Commissioner Shockley opened the floor to receive public comment.

Edward Lee, President of the Worcester County Branch of the National Association for the Advancement of Colored People, suggested contacting the ACLU to discuss guidelines to avoid an over-abundance of signs. Mr. Bloxom explained that the ACLU views the law as a limitation of free speech and are not likely willing to compromise. Commissioner Boggs stated that Baltimore County had tried unsuccessfully to reach a compromise with the ACLU.

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

Following some discussion and upon a motion by Commissioner Boggs, the Commissioners voted unanimously to adopt Bill 08-5 (Zoning - Temporary Political Signs) as presented.

The Commissioners reviewed proposed legislation to authorize the County Commissioners of Worcester County, Maryland to borrow on its full faith and credit and to issue and sell its General Obligation Bonds and its Bond Anticipation Notes at one time or from time to time within four years from the date the bill becomes effective, in an amount not exceeding \$35,000,000 to provide financing for a portion of the cost of renovations and additions to Pocomoke High School (PHS), including payment of all related costs and costs of issuance of such bonds. After some discussion, Commissioners Boggs, Busick, Cowger, Church, Gulyas, Purnell and Shockley introduced the aforementioned proposed bill as Bill 08-6 and agreed to schedule a public hearing on the bill for the next legislative session on August 19, 2008.

Commissioner Shockley closed the legislative session.

At the request of Assistant Chief Administrative Officer Kelly Shannahan and recommendation of Robert Doory, Bond Counsel with Miles & Stockbridge, P.C. and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved Resolution No.

08-18, constituting an “official intent resolution” in order to permit the County Commissioners to use a portion of the proceeds of the Pocomoke High School (PHS) Bonds to reimburse the County for those project costs incurred and paid by the County prior to issuance of one or more series of its General Obligation Bonds in an amount not to exceed \$35,000,000 for the purpose of financing renovations and additions to PHS.

Health Officer Debbie Goeller briefed the Commissioners about an FY09 State Community Bond of up to \$500,000 which is available to develop a dental clinic in Worcester County to provide restorative and preventative dental services to Medical Assistance (MA) eligible and uninsured children ages 1 to 18. Ms. Goeller advised that Worcester County was one of five counties in Maryland which were identified as being the most in need of public dental services and could be eligible for a three-year funding package to cover construction and operating costs of the proposed dental clinic. She advised that the State has fast-tracked the proposed grant assistance program and requested authorization to apply for the bond, which she advised would not require matching grant funds from the County in the first year of funding. She reviewed the proposed options for construction of the clinic: Option A - construct a 3,000 square foot addition to the Snow Hill Health Center at an approximate cost of \$855,000; or Option B - renovate the Oscar Purnell House (formerly used by the Commission on Aging) in Snow Hill at an approximate cost of between \$1.5 million and \$1.8 million. She stated that Option A is the preferred option and has been included in the bond application upon approval by the Commissioners.

In response to a question by Commissioner Boggs, Ms. Goeller stated that the bond guidelines provide that the clinic must serve the needs of children. She advised that Garrett County had expanded its dental program to include senior citizens, and that may be a possible option in Worcester County in the future; however, at this time the focus will be on dental services for children.

Commissioner Busick stated that she would like to see the clinic constructed in the north end of the County. Ms. Goeller advised that while she was open to other possible sites, these two options were the only clear choices after an exhaustive search. She explained that the site should be identified in the bond application due next week, but could possibly change thereafter.

Following much discussion and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized submission of the bond application with the inclusion of Option A, which calls for the construction of up to a 3,000-square foot addition to the existing Snow Hill Health Center at an estimated cost of \$855,000 of which \$355,000 may be required in local funding, and further authorized Commission President Shockley to sign the bond application once completed next week.

The Commissioners reviewed a memo from Budget Officer Kathy Whited requesting authorization to purchase and distribute Dell laptop computers to all newly-hired teachers at the annual Board of Education opening meeting and welcome to new teachers on Tuesday, August 26, 2008. In her memo, Ms. Whited advised that as of July 2, 2008 the Board of Education (BOE) had hired 41 new teachers, and is continuing to hire new teachers to replace those who are still in the process of submitting their resignations. Upon a motion by Commissioner Cowger, the Commissioners unanimously agreed to waive bidding and purchase 51 laptop

computers with dual batteries and carry cases from Del at a cost of \$60,734.30 and software from Florida Micro of Delray Beach, FL at a cost of \$2,966 for a total cost of \$64,092.71 or \$1,256.72 per laptop.

Pursuant to the request of Development Review and Permitting Director Ed Tudor and upon a motion by Commissioner Boggs, the Commissioners unanimously adopted Resolution No. 08-19 amending Resolution No. 08-7 modifying the land classification boundaries of certain properties in the Atlantic Coastal Bays Critical Area (ACBCA) to correct a mapping error. Mr. Tudor explained that the correction adds a parcel which was mistakenly omitted from the previous resolution revising this area along U.S. Rt. 50 near Herring Creek from Resource Conservation Area (RCA) to Intensely Developed Area (IPA).

Pursuant to the request of Comprehensive Planning Director Sandy Coyman and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Shockley to sign Addendum #4 to the Terms of the Memorandum of Understanding (MOU) between the Maryland Department of the Environment (MDE) and Worcester County for the Assawoman Bay Watershed Restoration Action Strategy (WRAS) to extend the current contract end from June 30, 2008 to December 1, 2008 at no additional cost.

Pursuant to the request of Mr. Coyman and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Shockley to sign the Independent Contractor's Agreement with W.R. McCain & Associates of Salisbury, Maryland at a cost of \$3,900 for the appraisal of a 227.88-acre property owned by Phillips Family, LLC and identified on Tax Map 73 as Parcel 128 and part of Parcel 8, located at 3554 Bayside Road, Snow Hill, Maryland which is within the Coastal Bays Rural Legacy Area. Mr. Coyman advised that the property, which is considered a first tier priority for Rural Legacy because it includes bay waterfront, was appraised two times since June 2008. However, because the appraisals differ by more than 20%, the State requires that a third appraisal be completed prior to purchase of a proposed conservation easement on this property.

Pursuant to the request of Environmental Programs Director Bob Mitchell, the Commissioners unanimously agreed to schedule a public hearing on August 19, 2008 to receive public comment on an amendment to the Worcester County Water and Sewerage Plan and the establishment of a Sanitary Service Area (SSA) for Ocean Landings II, located on the south side of U.S. Rt. 50 east of MD Rt. 589 and including WalMart and Home Depot. The subject property is identified on Tax Map 26 as Parcels 301, 302, 305, 303 and 455. At their July 1, 2008 meeting, the Commissioners had agreed to schedule the public hearing on the proposed amendment to the Water and Sewerage Plan for Ocean Landings II to be held on August 5, 2008, but at the request of the applicant agreed to delay that hearing until August 19, 2008 so that it could be heard along with the proposed establishment of the SSA.

Public Works Director John Tustin provided the Commissioners with a report on the leak and subsequent repair of a force main in the Assateague Pointe Service Area on July 3, 2008. Mr. Tustin advised that a bicyclist spotted the spill, which resulted from the leak, and reported it to the County around noon. He stated that repairs had been made to the main and the spill

cleaned up by 7:00 p.m. that same evening. He advised that based on the size of the vacuum truck used to collect the liquids and wet soil, the plant operators estimated that less than 1,000 gallons of wastewater had spilled on the ground. Mr. Tustin advised that a report of the incident was submitted to the Maryland Department of the Environment (MDE), with MDE inspecting the site and determining that they were satisfied with the cleanup efforts that had been made. Because we believe that the damage to the pipe was caused by unauthorized vehicles being on-site, Mr. Tustin reported that the access to the site from MD Rt. 611 has been blocked and now signs are being prepared to warn citizens to keep out of this site. Mr. Tustin concluded that staff did an outstanding job in responding to and properly reporting the incident.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Boggs, the Commissioners unanimously approved bid specifications for the purchase of stone products to be utilized by the Roads Division of Public Works.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Boggs, the Commissioners unanimously approved bid specifications for the purchase of pipe to be utilized by the Roads Division of Public Works.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Boggs, the Commissioners unanimously approved bid specifications for the purchase of one wheel loader to be utilized by the Recycling Center within the Solid Waste Division of Public Works.

Pursuant to a request from Mr. Tustin, the Commissioners unanimously approved scheduling the annual Electronics Recycling (e-Cycle) and Household Hazardous Waste Collection Day at the Ocean Pines Public Works complex in south Ocean Pines for November 1, 2008 from 10:00 a.m. until 2:00 p.m.

The Commissioners answered questions from the press, after which they adjourned to meet again on August 5, 2008.