

Minutes of the County Commissioners of Worcester County, Maryland

October 21, 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 Church, with Commissioner Purnell temporarily absent, 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; Kathy Whited, Budget Officer; Harold Higgins, Finance Officer; Phil Thompson, Assistant Finance Officer; and Allen Taylor, Information Technology Manager. Topics discussed and actions taken included: appointing Donna Weaver as a business representative to the Lower Shore Workforce Investment Board, Bill Raddi to the Shoreline Commission and Lloyd Parks to the Commission on Aging; reappointing Robert Hawkins, Tad Pruitt and Vivian Pruitt to the Commission on Aging; reviewing potential and pending litigation; receiving legal advice from counsel; and performing executive actions.

Commissioner Purnell joined the meeting at the completion of the closed session.

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 October 7, 2008 meeting, as presented.

The Commissioners presented a retirement commendation to Deputy Corporal George Dickerson and thanked him for all that he has accomplished in helping the Worcester County Sheriff's Office to fulfill its mission to protect and serve the community.

Pursuant to the written request of Sharone Grant, President of the Worcester County Commission for Women, and upon a motion by Commissioner Boggs, the Commissioners unanimously approved the revised bylaws for the Commission for Women as adopted by the organization at their last meeting on September 16, 2008.

Chief Administrative Officer Gerald T. Mason advised that the County's Financial Advisor, Sam Ketterman, and Bond Counsel, Robert Doory, recommend postponing the bond sale scheduled for Tuesday, October 21, 2008 as the status of the government bailout has not stabilized the municipal bond rates. Furthermore, Mr. Mason advised that interest rates are approximately 1 ½% higher than the rate that would likely be available under normal conditions. He stated that there is no question that a buyer will purchase the bonds, but likely at a bid of 5.5% or higher. Mr. Mason concluded that as such it is ill advised to move forward with the sale at this time, and the County can easily fund the project with existing revenues through next spring if necessary. Upon a motion by Commissioner Gulyas, the Commissioners unanimously agreed to postpone the bond sale at this time and to review the situation again as the rates stabilize.

Pursuant to the request of Kathy Whited, Budget Officer, and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved FY08 Year-End Budget Transfers totaling \$757,129.

Pursuant to the recommendation of Ms. Whited and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved the proposed Year End Reserve for Encumbrances in the amount of \$5,488,822. Ms. Whited explained that these funds have been set aside or committed for contracts and purchase orders that will be fulfilled in a subsequent fiscal year, such as Emergency Services radio expenses, park and boat landing improvements, and other such projects. Not all requests from Department Heads were approved as several did not meet the intent of encumbrances.

Pursuant to the request of Ms. Whited and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved the use of funds of \$5,144 remaining in the Maryland Cooperative Extension Office (MCEO) FY08 budget to fund specific needs of MCEO. Ms. Whited explained that the County funded \$126,467 of the MCEO FY08 budget, which is the County's share for salaries, benefits and travel for MCEO personnel, and the remaining balance of \$5,144 would be used as follows: \$2,100 for storage rental and \$3,044 for additional travel funds for educators.

The Commissioners reviewed an Amended and Restated Service Agreement for Frontier Town, prepared by County Attorney Sonny Bloxom. Mr. Mason advised that the County entered into a previous agreement with Frontier Town on July 1, 1998, and it has since been discovered that the terms of the agreement were in error and did not actually reflect the agreement of the parties and the actual situation regarding sewer service. He further stated that the existing agreement contemplated that billing would be done with a meter and using a commercial rate, and at present the billing is done using a formula developed by the County in lieu of a meter and a commercial rate. Mr. Mason concluded that the revised agreement had been agreed upon by each of the parties involved and reflects their intent and the situation as it actually exists. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously authorized Commission President Shockley to sign the revised agreement.

Public Works Director John Tustin advised the Commissioners that staff had completed its due diligence efforts regarding the possible acquisition of a 4,900-square foot office building on a 6.53-acre commercial parcel, owned by Berlin Properties North, LLC, represented by Troy Purnell, and located on the north side of Old Ocean City Road and along the west side of US Rt. 113 in Berlin, which the County could purchase to serve as the location for a new northern Worcester County Senior Center. Mr. Tustin advised that after reviewing Phases I and II Environmental Reports on the property that there are no indications of any environmental concerns. He further stated that with regard to access to the property the State Highway Administration (SHA) advised that provided the property is used for a senior center, no improvements would need to be made to the existing driveway or the entrance onto the State highway. However, if additional building sites or uses were contemplated and constructed then major intersection improvements would be necessary as the driveway intersects with MD Rt. 346. Mr. Tustin advised that minor renovations to the building would cost approximately \$300,000, and likely include a new kitchen, HVAC system, electrical upgrades, flooring materials and possibly removing or relocating some interior walls to make the facility compliant with the Americans with Disabilities Act (ADA). He further explained that following the reinstating of electrical service to the property it had been discovered that the pump house is inoperable and would cost an additional \$10,000 to repair. Mr. Tustin advised that the property would go to settlement on October 26, 2008. In response to a question by Commissioner Church, Mr. Tustin stated that the County would be required to complete major upgrades to the existing driveway if additional facilities are constructed at this site in the future. Commissioner Gulyas advised that the County does not plan to provide additional services at that location within the next five to 10 years, and rumors that the site is slotted to house a new Berlin Branch of the Worcester County Library are untrue. Following some discussion and upon a motion by Commissioner Gulyas, the Commissioners unanimously agreed to proceed with the project.

The Commissioners met with Mr. Tustin to review the lowest State-negotiated contract price of \$16,107.25 for the purchase of a new tractor for use within the Maintenance Division of Public Works, which came in at more than \$2,000 over budget. Following some discussion and upon a recommendation by Commissioner Shockley, the Commissioners unanimously agreed to postpone awarding the bid while staff reviewed other options for purchasing a new tractor.

The Commissioners met with Mr. Tustin to review new information regarding their recent bid award for one Case Backhoe for use within the Water and Wastewater Division of Public Works. At their October 7, 2008 meeting, the Commissioners awarded the bid for the purchase of a Case Backhoe to the second low bidder, Folcomer Equipment of Greenwood, Delaware in the amount of \$61,995, since at the time it was believed that the low bidder, Tri Supply and Equipment of Salisbury, with the low bid of \$59,434 for a JCB Backhoe, did not have a facility in the local area with which to provide replacement parts and repair services on the unit. Mr. Tustin advised the Commissioners that since the time of the bid award Tri Supply and Equipment had advised Public Works that the company does own a full service repair facility in Salisbury. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously retracted their original decision and awarded the low bid for the

purchase of one JCB Backhoe to Tri Supply and Equipment.

Mr. Tustin sought direction from the Commissioners on solid waste management issues. He advised that the most pressing issue at this time surrounds the permitting of Cell 5, which is to be used as either a rubble fill or a municipal solid waste landfill. He advised that regardless of its use, 12 months of groundwater monitoring at a cost of approximately \$115,800 would be required to determine the water level and quality in the area of the rubble fill, since only one piezometer (an instrument used for measuring water pressure and compressibility) and one well had been placed there in the late 1980s. Mr. Tustin advised that it is in the best interest of the County to move forward with installing additional piezometers and wells to begin gathering and analyzing the data and begin the permitting process to convert the 20-acre site for use as a municipal solid waste cell. He advised that the 25-30% residuals remaining from Cell 1 could be mined and then placed in the new cell. In response to a question by Commissioner Boggs, Mr. Tustin advised that construction on Cell 5 could be complete by 2011 at a cost of about \$8 million. He further stated that it would cost approximately \$1.1 million less to construct this Cell than it did to construct Cell 4 because less off-site fill material would be needed. Following some discussion and upon a motion by Commissioner Purnell, the Commissioners unanimously agreed to move forward with the permitting process to use Cell 5 as a municipal solid waste landfill, including the installation of additional piezometers and wells to begin water testing, and further approved the proposal from EA Engineering for professional services at a lump sum fee of \$115,800 to prepare a Phase II - Supplemental Hydrogeologic Investigation and Concept Design for Cell 5.

The Commissioners met with Maryland Department of Transportation (MDOT) Secretary John D. Porcari, Maryland Transit Administration (MTA) Planning Director Henry Kay, State Highway Administration (SHA) Administrator Neil Pedersen, and MDOT/SHA members Donnie Drewer, Virginia Cologne, and Ashish Salanti to discuss the draft FY09 - FY14 Maryland Consolidated Transportation Program (CTP) as part of the MDOT/SHA Annual Consultation Meeting with each county throughout the State. Secretary Porcari thanked the Commissioners for meeting with them and provided an overview of MDOT programs and the deferment of \$1.1 billion worth of new MDOT/SHA projects over the next six years due to the State deficit, Wall Street woes, and reduced revenues in the following categories: \$116 million down in vehicle titling fees, \$145 million down in fuel tax; and other revenues. The good news, Secretary Porcari advised, is that MDOT has been successful in maintaining full funding for its System Preservation program.

Mr. Kay reviewed funding for transit programs, advising that the inter-county participation between Somerset, Wicomico and Worcester Counties to make Shore Transit a success has lead to it being held up as a model throughout the state. He reviewed the funding for Shore Transit as follows: \$2 million in Federal and State funding with a \$2.2 million local match for total funding of \$4.2 million, which though it could not be increased remains equal to prior year funding. He advised that funding woes will undoubtedly cause Shore Transit to re-exam the services it offers and make cuts to stay within budget. Commissioner Gulyas urged Mr. Kay to work with Shore Transit to protect rural routes, which for many area residents are their only source of transportation to and from work. In response to a question by Commissioner Gulyas,

Mr. Kay stated that he understood that the bus routes are “lifeline services,” but that MTA would not make recommendations to Shore Transit with regard to where cuts should be made. He instead urged her to make her concerns known to Shore Transit directly.

Mr. Pedersen presented the components of the CTP aimed at maintaining bridge safety. He stated his appreciation that the State had maintained full funding for System Preservation programs. He further advised that the US Rt. 113 Dualization Project was one of the few projects that had escaped deferment and would be upgraded to a four-lane divided highway with access controls and shoulder improvements to accommodate bicycles and pedestrians as follows: construction from Hayes Landing Road to Goody Hill Road (2.5 miles) began August 2008 and should be complete by fall 2009 at total cost of \$22.5 million; and Goody Hill to Massey Branch Road (1.8 mile) with engineering and right-of-way acquisition underway and construction to begin spring 2009 and be completed at a cost of \$23 million. He advised that the remainder of the US Rt. 113 dualization project and US Rt. 50 Bridge replacement project are in various stages of planning, but have not received funding approval. He explained that project planning and environmental studies are underway to replace the US Rt. 50 Bridge (Bridge 23007) over the Sinepuxent Bay, which is estimated to cost up to \$400 million. The remainder of the US Rt. 113 dualization from north of MD 365, Public Landing Road, to Massey Branch (8.9 miles), with partial engineering and right-of-way acquisition underway, would be completed in the following three phases: Phase 3 (Massey Branch Road to Five Mile Branch Road) at a cost of \$41 million; Phase 4 (Five Mile Branch Road to north of Public Landing Road at a cost of \$50 million; and Phase 5 (Rt 12 Interchange) at a cost of \$30 million. Mr. Pedersen stated that potential improvements to the existing MD Rt. 589 corridor from US Rt. 50 to US Rt. 113 (4.7 miles) was also in the plan, but no construction funding was proposed at this time. Mr. Pedersen advised that if the referendum for slots passes, SHA will work with the County, State and developers to address the increased traffic issues that will be placed upon MD Rt. 589.

Mr. Drewer reviewed a list of completed and ongoing safety, congestion relief, highway and bridge preservation projects in Worcester County, including resurfacing the US Rt. 50 Bridge, with temporary lane closures and repairs to be complete prior to May 2009. In response to a question by Commissioner Gulyas, Mr. Drewer advised that the latex overlay used on the decking is temperature sensitive and can be done only when temperatures reach 41 degrees or higher. He advised that SHA’s construction window is very short due to the seasonal nature of Ocean City, but that his office strives to work around the tourist season and special events whenever possible.

Commissioner Boggs stressed the importance of moving forward with funding for improvements to MD Rt. 589 due to heavy road congestion and the possible passage of the upcoming State referendum on slots. In response to comments by Commissioner Boggs, Mr. Pedersen advised that SHA has been extremely successful in forming partnerships with local jurisdictions and developers in other areas of the state to address road congestion. However, he could not promise funding for this project given the current economic climate.

Commissioner Shockley thanked MDOT and SHA officials for meeting with them and asked for their support to continue working to address safety concerns regarding the intersection of US Rt. 113 and MD Rt. 12.

Commissioner Church thanked State elected officials for their efforts to preserve funding for projects in Worcester County.

Senator Lowell Stoltzfus thanked transportation officials for meeting with them and maintaining System Preservation Program funding, even in the face of a State budget deficit of nearly \$2 billion. He further thanked them for continuing to fund improvements to US Rt. 113. Senator Stoltzfus concluded by requesting that transportation officials strive to address issues with the Bay Bridge to protect area tourism and consider building a second bridge to be paid with toll revenues.

Delegate Jim Mathias welcomed Secretary Porcari and his staff to Worcester County and recognized Delegate Norman Conway, Chair of the House Appropriations Committee, for his ongoing efforts to preserve needed funding for roadway improvements in Worcester County. He stated that he and Delegate Conway would continue working to secure funding to complete the dualization of US Rt. 113 and to begin improvements to MD Rt. 589, which serves the residential base of the County.

Delegate Elmore thanked transportation officials for their ongoing efforts to dualize US Rt. 113, informing them that as a teenager he experienced the loss of one of his best friends who was killed on that road. He also urged them to make greater strides regarding the Bay Bridge, which would take 15 years to see completion even if State officials began the project today.

Delegate Conway reviewed the conglomeration of economic woes affecting the State as well as the Nation, noting that all 50 states have fund investments affected by the changing climate on Wall Street. However, he urged those in attendance to remain positive in these negative times. He advised that he stands firm with the Governor in his efforts to promote the "One Maryland" concept. He advised that the US Rt. 113 dualization project was one of only three roadway projects remaining in the State budget, and he conveyed his deep appreciation to those who fought to preserve this funding. Delegate Conway discussed steps the State may take in the near future to close the budget deficit, noting that a full 67% of the Maryland State Operating Budget is mandated. He advised that officials are working to address this issue, but that it would take time to correct. He advised that they are also addressing fuel and other mass transportation issues and advised that it was critical for local officials to provide input on these and other issues facing the State. He concluded that if the referendum for slots passes, State officials would reassess their priorities regarding MD Rt. 589.

Pocomoke City Manager Russ Blake thanked transportation and elected officials for their leadership and recognized the efforts of Mr. Drewer to address issues of concern to Pocomoke.

Joe Green, Chair of Safe Travel Along Route (STAR) 589, commended residents for attending a recent meeting to discuss improvements to MD Rt. 589. He announced that he had adopted MD Rt. 589 as his own project and would do everything in his power to keep the project moving to secure the funding.

Bob Hulburd, Chair of County Residents Action for Safer Highways (CRASH), advised that this was the 15th consecutive year he had been in attendance for the annual Transportation Tour in Worcester County. He thanked SHA officials, and advised that they are doing a great job. He advised that due to budget cuts, everyone must work together to develop creative measures to fund the highway projects. Following much discussion, the Commissioners thanked transportation officials for meeting with them.

Development Review and Permitting (DRP) Director Ed Tudor presented the Commissioners with a "strike and replace" version of the draft Design Guidelines and Standards

for Commercial Uses. Mr. Tudor stated that this version is the product of the Planning Commission's review and recommendations relative to the Guidelines and Standards. He further advised that DRP staff concur wholeheartedly with the changes recommended by the Planning Commission. Mr. Tudor noted that while there was discussion among the Planning Commission as to whether this document should be considered at a public hearing in November or be delayed and considered in conjunction with the draft Zoning and Subdivision Control Article in early 2009, there was no consensus as to which was preferable. He concluded that regardless of the pathway the Commissioners wish to pursue, he recommended that the amended draft be placed on the County's website and it be this version on which the public hearing is held. He advised that staff recommends holding the hearing on the draft Design Guidelines and Standards for Commercial Uses concurrently with the comprehensively revised Zoning and Subdivision Control Article, since the documents go hand in hand. Mr. Tudor explained that DRP staff was scheduled to begin reviewing the comprehensively revised Zoning Ordinance with the Planning Commission on October 23, 2008 and the revised Subdivision Regulations would be completed and reviewed soon thereafter. After some discussion, the Commissioners concurred with staff's recommendation to hold a concurrent public hearing.

Upon a motion by Commissioner Gulyas, the Commissioners unanimously agreed to waive the standard bid process and approved a proposal from Absolute Security to install a video storage and network server for the Court House security camera system at a total cost of \$10,884.42.

The Commissioners answered questions from the press, after which the board adjourned to meet again on Wednesday, November 5, 2008.