

Minutes of the County Commissioners of Worcester County, Maryland

December 16, 2008

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

Following a motion by Commissioner Purnell, seconded by Commissioner Shockley, the Commissioners unanimously voted to meet in closed session at 10:00 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; Kathy Whited, Budget Officer; George Bradley, Director of Human Resources; Jerry Redden, Director of Economic Development; John Tustin, Director of Public Works; John Ross, Deputy Director of Public Works; and Bob Mitchell, Director of Environmental Programs. Topics discussed and actions taken included: hiring Paul T. Jones as a Crossing Guard and Joshua Moore as a Deputy Sheriff Trainee within the Sheriff's Office; considering personnel changes in the Office of Environmental Programs; appointing Donna Dillon to the Housing Review Board, Lee W. Baker to the Ethics Board and Monna Van Ess to the Commission for Women; reappointing Frederick Stiehl to the Water and Sewer Advisory Council for the Ocean Pines Service Area, James Spicknall to the Building Code Appeals Board, Tim Cadotte to the Recreation Advisory Board, Gilbert Thompson to the Shoreline Commission, Edith Barnes to the Board of Library Trustees, Kevin Douglas to the Ethics Board, and Otho Mariner to the Housing Review Board; 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 Gulyas called the meeting to order and announced the topics discussed during the morning closed session.

The Commissioners reviewed and approved the minutes of their December 2, 2008 meeting, as presented.

The Commissioners held a public hearing to consider a proposed amendment to the Worcester County Comprehensive Water and Sewerage Plan by adding a policy requiring septic systems constructed for new uses in the Atlantic Coastal Bays Critical Area and the Chesapeake Bay Critical Area to be capable of nutrient removal with total nitrogen concentration of less than

20 milligrams per liter (mg/l) or at least a 50% reduction in total nitrogen; and requiring the property owner to execute an agreement to provide for the maintenance and inspection of the system. Comprehensive Planning Director Sandy Coyman stated that the plan amendment applies to septic systems being constructed for new uses (but not the replacement of or any repairs to septic systems serving existing improvements and developments) located within the 1,000 foot Atlantic Coastal Bays Critical Area or Chesapeake Bay Critical Area, as defined in Section NR 3-101(f) and Section NR 3-201(f) of the Code of Public Local Laws of Worcester County, Maryland. He stated that at the time the permit is issued the property owner installing such a system must execute and record in the land records for Worcester County, Maryland a Nutrient Removal Septic System Agreement and Easement document (the "agreement"). The agreement will document that the property owner agrees to provide for the maintenance of the system by an agent approved by the system's manufacturer for the life of the system and will allow access for inspection by MDE and Worcester County Environmental Programs or such other department designated by the County Commissioners. He concluded that several jurisdictions in Maryland have adopted similar regulations. Mr. Coyman noted that the Planning Commission found the proposal to be consistent with the Comprehensive Plan.

Commissioner Church questioned the Procedures for Plan Amendments, Section 1.4.3 Review, regarding an applicant's responsibility to pay for independent technical advice if the County requires additional technical review. Environmental Programs Director Bob Mitchell assured Commissioner Church that the statement applies only to applicants seeking a text amendment to the Worcester County Water and Sewerage Plan and not to homeowners seeking to install a septic system for new uses in the Critical Area. Commissioner Cowger expressed concern regarding the requirement that property owners must allow access to their properties for inspection by County departments. Mr. Mitchell ensured Commissioner Cowger that his staff would inspect only the septic system and would not be seeking any other potential violations. He further explained that larger septic systems may also need to be inspected by Public Works staff. In response to a question by Commissioner Busick, Mr. Mitchell stated that currently grant funds from the Bay Restoration Fund (BRF) can be used to pay for the new equipment, installation and five years of system maintenance.

Commissioner Gulyas opened the floor to receive public comment.

Ellie Diegelman of Ocean City questioned the requirement to execute and record in the land records a Nutrient Removal Septic System Agreement and Easement document. Mr. Mitchell explained that the State, using Bay Restoration Funds (BRF), will pay for the first five years of maintenance to these systems, with the property owner to take over the cost of system maintenance beginning in the sixth year. He stated that if the property owner sells the home, the agreement and easement transfers with the sale of the property, and the recorded agreement will ensure that the new homeowner fully understands their responsibility for maintaining the system. In response to a further question from Ms. Diegelman regarding compliance with the Comprehensive Plan, Mr. Coyman quoted page 75 of the Comprehensive Plan which states that "nutrient reduction technologies should be applied to on-site septic systems."

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

Upon a motion by Commissioner Busick, the Commissioners unanimously adopted Resolution No. 08-36 amending the Worcester County Comprehensive Water and Sewerage Plan to add a policy requiring nutrient removal for new septic systems serving new uses in the Critical

Area of the Atlantic Coastal Bays and Chesapeake Bay in Worcester County, Maryland.

The Commissioners held a public hearing to consider a proposed amendment to the Worcester County Comprehensive Water and Sewerage Plan filed by Assateague Island National Seashore (ASIS) to reflect the upgrading and expanding of the ASIS Wastewater Treatment Plant (WWTP), which serves the headquarters complex located on the southwest side of Maryland Route 611 prior to the Verrazano Bridge crossing Sinepuxent Bay and identified on Worcester County Tax Map 42 as Parcels 8, 23, 28, 35 and 40. Mr. Coyman explained that the applicant proposes to modify the ASIS WWTP from a sequencing batch reactor system to a membrane bio-reactor system to reduce nutrient concentrations in the effluent; expand the existing plant from 12,000 gallons per day (gpd) serving 40 equivalent dwelling units (EDUs) to a treatment capacity of 20,000 gpd serving 66 EDUs; eliminate the effluent discharge to the Sinepuxent Bay and instead direct effluent into an adjacent created wastewater treatment wetland owned by the Maryland Department of Natural Resources (DNR); and have the majority of the subject properties designated S-1, which implies that sanitary sewer services would be provided within the next two years, and the remainder designated S-6, which implies that no future sanitary services will be provided, as requested by the State.

Commissioner Gulyas opened the floor to receive public comment.

Ellie Diegelman of Ocean City expressed concern regarding the intended use of the S-6 portions of the subject property. In response to her concerns, Carl Zimmerman, Acting Director of ASIS advised that the S-6 area of the property was acquired using Program Open Space (POS) funds for the purpose of maintaining open lands in the county and will not be developed. In response to an additional question by Ms. Diegelman, Mr. Zimmerman stated that the application had been subjected to an environmental review and no objections were received from Assateague Coastal Trust or any other group or individual.

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

Following much discussion and upon a motion by Commissioner Busick, the Commissioners unanimously adopted Resolution No. 08-37 amending the Comprehensive Water and Sewerage Plan for Worcester County to reflect the upgrading and expanding of the ASIS WWTP.

Pursuant to the request of Budget Accountant Kim Johnson and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Gulyas to sign the Fire, Rescue and Ambulance Fund Annual Reports in conjunction with the Maryland Emergency Management Agency (MEMA) funding and the Senator William H. Amoss Fire, Rescue and Ambulance grant funds received in FY07/08, summarizing the funds utilized by each of the municipalities within Worcester County for fire protection or ambulance services and how the funds were distributed among the ten volunteer fire companies in the County, and how the County intends to distribute the funds in FY 08/09.

The Commissioners met with Budget Officer Kathy Whited to review the State proposed Modernized Integrated Tax System (MITS), which will cost Worcester County \$70,449 over a four-year period, but is projected to generate additional revenue for the County totaling \$235,054 for a net gain of \$164,605 from FY2010-FY2013. Ms. Whited advised that MITS is designed to

strengthen the state's ability to identify and collect taxes from individuals and businesses that have unpaid or underpaid tax liabilities. A recent press release from the Maryland Comptrollers Office reports that the State expects to recapture nearly \$200 million in revenue as it is phased in over the next four years and then bring in \$80-\$100 million per year in perpetuity. Commissioner Boggs directed staff to determine if any other states have integrated the new system and if so what were the benefits. Following some discussion, the Commissioners thanked Ms. Whited for providing them with the information on MITS.

Pursuant to the request of George King, Agency Procurement Specialist for the Health Department, and upon a motion by Commissioner Shockley, the Commissioners unanimously approved bid specifications for the production and distribution of the 2009 Play It Safe in Ocean City Senior Guide booklets and posters.

Pursuant to the recommendation of Recreation and Parks Director Sharon DeMar Reilly and upon a motion by Commissioner Busick, the Commissioners unanimously awarded the best Request for Proposals for Master Plan Development of Greys Creek Nature Park to The Faux Group of Annapolis, Maryland at a cost of \$64,744. Ms. Reilly stated that the Board of Public Works had approved State Program Open Space (POS) funding to cover 90% of all project costs, leaving a net cost to the County of \$6,474. In response to a question by Commissioner Purnell, Ms. Reilly confirmed that if the County fails to use the POS funds, they will likely lose this funding.

Development Review and Permitting (DRP) Director Ed Tudor and Deputy Director Phyllis Wimbrow presented the Commissioners with the Draft Subdivision Regulations, additional Land Use Controls and Zoning Commitments, which are Titles 2, 3 and 4, respectively, of the Zoning and Subdivision Control Article of the Code of Public Local Laws of Worcester County, Maryland. He stated that these draft documents had been given to the Planning Commission to review after they complete the task of reviewing the draft Zoning Ordinance, which is currently underway. He advised that the four Titles together comprise the Zoning and Subdivision Control Article (the Code), and further stated that the completion of these four draft documents achieves the County's goal of drafting all of the text of the Code to reflect the goals and objectives of the County Comprehensive Plan before the year's end. He thanked DRP staff for taking on additional responsibilities, which enabled him and Ms. Wimbrow to complete this task. The Commissioners thanked Mr. Tudor and Ms. Wimbrow for their hard work to complete this Herculean task.

County Attorney Sonny Bloxom met with the Commissioners to present his review of the State law regarding slots in Worcester County as requested by the Commissioners. Mr. Bloxom recommended that the Commissioners ask the State to revise five sections of the law that pertain specifically to Worcester County as follows: Section 9-1A-10(a)(5)(ii): hiring preference should be granted to the entire County, not just within 10 miles of the facility; Section 9-1A-14(c)(2): an applicants' lack of expertise or training should not disqualify them from becoming video lottery terminal employees and should be judged instead on their "ability to become trained" as an employee in order to encourage lower-skilled people to advance; Section 9-1A-31(c)(3)(ii): only

the County Commissioners should be appointing the members of the Local Development Council (LDC), as the facility is to be located in the unincorporated area of the County; Section 9-1A-32(d)(1) & (2): change “may pay” and “may take” to “shall pay” and “shall take” with respect to infrastructure improvements to Maryland Rt. 589 to address transportation issues; and Section 9-1A-27 “Editor’s Note”: all local impact grant funds should be distributed to the County to be spent in accordance with the multi-year plan based on specific needs, rather than the existing requirement that the local impact grant be distributed at a rate of 70% to the County, 20% to Ocean City and 10% to Berlin. Mr. Bloxom advised that the recommendations before them address only those issues that directly affect Worcester County. Following some discussion and upon a motion by Commissioner Church, the Commissioners unanimously approved the requested amendments to the State law as presented and agreed to send a letter to the Governor and the Eastern Shore Delegation asking for their support of these proposed amendments.

The Commissioners answered questions from the press, after which Commissioner Gulyas wished everyone a Merry Christmas and Happy New Year and adjourned to meet again on January 6, 2009.