

## Minutes of the County Commissioners of Worcester County, Maryland

April 22, 2008

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

Following a motion by Commissioner Gulyas, seconded by Commissioner Purnell, with Commissioner Busick 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; George Bradley, Director of Human Resources; and John Tustin, Director of Public Works. Topics discussed and actions taken included: hiring of two Roads Worker II's for the Roads Division of Public Works; appointing Dr. William Greer and reappointing Richard Collins, Bruce Broman and The Reverend Guy H. Butler to the to the Adult Public Guardianship Board; appointing Emma Klein and Dr. Nancy Dorman to the Social Services Board; reappointing Marty Pusey to the Drug and Alcohol Abuse Council; reviewing potential and pending litigation; receiving legal advice from counsel; and performing executive actions.

Commissioner Busick was absent from the meeting.

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 April 8, 2008 meeting, as presented.

The Commissioners presented a proclamation to Worcester County Social Services Director Peter Buesgens and Foster Care Supervisor Roberta Baldwin recognizing May as National Foster Care Month and thanking area foster parents Anne Rambo and Alison Tinker who have opened their homes to help children involved in crisis situations. Mr. Buesgens stated that Worcester County currently has only 10 foster families and is actively working to recruit more families. He stated that foster parents are all-star providers who help Social Services meet its primary objective, which

is to keep area children in Worcester County, going to the best schools and receiving a high level of services.

The Commissioners presented a commendation to Keota Silaphone, Planner III for Comprehensive Planning, for being named the 2007 Lower Eastern Shore Tributary Team Watershed Hero by the Maryland Department of Natural Resources for her ongoing efforts to protect Maryland's waters through nutrient reduction and water quality management.

The Commissioners presented a commendation to Stephen Decatur High School (SDHS) student Dennis Teegardin, who served as Worcester County's Page to the 2008 Maryland General Assembly.

The Commissioners presented a commendation to the Pocomoke High School's Girls Basketball Team, the Warriors, for capturing the 2007/2008 Maryland Class 1A Girls Basketball Championship Title as well as the State Sportsmanship award.

The Commissioners presented a commendation to the Snow Hill High School Boys Basketball Team, the Eagles, for capturing the 2007/2008 Maryland Class 1A Boys Basketball Championship Title for the second year in a row.

The Commissioners presented a commendation to the Stephen Decatur High School (SDHS) Wrestling Team, the Seahawks, for capturing the title of 2007/2008 Maryland Class 3A/4A State Dual Meet Champions.

Commissioner Purnell read into the record a commendation recognizing Daniel Miller, a junior at SDHS who could not be present at the meeting due to a prior obligation, as the 2007-2008 Maryland State Wrestling Champion in the 189-pound weight division as well as Bayside Conference Co-Wrestler of the Year.

The Commissioners presented a commendation recognizing Skylar Snead, a senior at SDHS, for capturing the 2007-2008 Maryland State Wrestling Championship in the 135-pound weight division as well as being named Bayside Conference Co-Wrestler of the Year.

The Commissioners expressed their pride in the accomplishments of each of the Worcester County student athletes before them for their hard work and for the outstanding manner in which they represented Worcester County throughout the season.

Commissioner Shockley informed those in attendance that Commissioner Busick was absent from the Commissioners' meeting because she was attending the Governor's Volunteer Service Awards Recognition Ceremony in Annapolis where she and several other Worcester County volunteers were being honored for their volunteer efforts in the community.

Pursuant to the recommendation of Housing Program Administrator Jo Ellen Bynum and upon a motion by Commissioner Gulyas, the Commissioners unanimously awarded the low bid for the rehabilitation of a house in the Snow Hill area to AB Construction of Girdletree, Maryland in the amount of \$42,230.51.

Upon a motion by Commissioner Purnell, the Commissioners unanimously awarded the low bid for the rehabilitation of a house in the Pocomoke City area to Diamond Contractors and Renovators of Berlin, Maryland in the amount of \$25,756. In response to a question by Commissioner Cowger, Ms. Bynum stated that both projects had come in under the estimated costs of \$50,000 and \$30,000 respectively.

Pursuant to the recommendation of Ms. Bynum and upon a motion by Commissioner Purnell, the Commissioners unanimously awarded the low bid for a replacement home in the Snow Hill area to Kilmon's Construction of Pocomoke City, Maryland in the amount of \$100,308.50.

Pursuant to the written request of Rebecca Shockley of the Health Department and upon a motion by Commissioner Gulyas, the Commissioners unanimously awarded the best bid for Laboratory Services to Cytology Service of Maryland, Inc. of Laurel, Maryland at an estimated annual cost of \$17,940.00, which is only \$322.50 or 2% higher than the low bidder. Debbie Farlow of the Health Department stated that Cytology Services is a Maryland-based company, the current provider of GYN Cytology services, and Health Department officials are pleased with the service they provide.

Pursuant to the recommendation of Comprehensive Planning Director Sandy Coyman and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved the County's match of \$200,000 from the Rural Legacy Program (RLP) Grant for the Maryland Coastal Bays Program's (MCBP) National Estuary Program (NEP) grant for October 1, 2008 to September 30, 2009. In response to a question from Commissioner Boggs, Mr. Coyman stated that the State had cut future funds for the RLP; however, funds were available from last year's RLP grant for the match. He stated that even with State cuts, the County expects to receive \$1 million in RLP grant funds for FY09.

In a related matter, Commissioner Church congratulated Dave Wilson, who previously served as Acting Director of the MCBP, for being chosen to serve as the new MCBP Executive Director.

Pursuant to the recommendation of Sonny Bloxom, County Attorney, and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Shockley to sign the Exclusive Use Agreement between the County Commissioners and Special Olympics Maryland, Inc. to store their boats and to hold Special Olympics sailing training at the Public Landing beach area from May 26, 2008 through September 1, 2008 with the continued provision that the training shall not interfere with other public use of the facility and that the County be released of liability for any claims which may arise from such use.

Public Works Director John Tustin introduced the Commissioners to William "Bill" Bradshaw, who was hired to fill the recently created position of County Engineer for Public Works.

Mr. Tustin met with the Commissioners to discuss plans to correct storm water management deficiencies and the leaky tunnel connecting the Worcester County Government Center and the Court House in Snow Hill. Mr. Tustin stated that the County has been working to address the issue for some time; however, water continues to migrate into the Sheriff's Office in the basement of the Government Center. He stated that staff has developed plans to resolve both problems, resulting in an increase of \$15,000 in project costs for a revised total project cost of \$23,000. Mr. Tustin highly recommended the project be completed. Mr. Mason stated that funds in the Court House Repairs budget could be used to cover the additional expense. In response to a question by Commissioner Shockley, Mr. Tustin stated that the leaks within the basement have resulted due to runoff from the Court House roof. He stated that staff plans to install drains to capture and redirect water from the roof to the stormwater drains. Following some discussion and upon a motion by Commissioner Purnell, the Commissioners unanimously authorized the work to be performed primarily by Department of Public Works staff, subject to stormwater management plan approval by the Department of Development Review and Permitting.

The Commissioners met with Mr. Tustin to review staff's recommendations regarding their prior request to identify all the dead end roads owned by the County and determine the feasibility of converting them to cul-de-sacs. This study stemmed from a request by Buzz Taylor, a resident of Holiday Harbor near Bishopville, for the County to construct a cul-de-sac on a vacant lot he owns at the end of Dixie Drive, which he contended would help serve school buses and other large vehicles that currently cannot turn around on the dead end street. Mr. Tustin stated that 87 dead-end roads are listed in the County Inventory of Public Roads and he was concerned that such action may set a precedent for installation of cul-de-sacs on all dead end streets. He advised that Joe Price, Superintendent of Transportation for the Board of Education (BOE), advised him that the BOE does not permit school buses to turn around in cul-de-sacs, since they typically do not have a radius wide enough to permit such maneuvers. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously declined Mr. Taylor's offer to deed his property to the County for the creation of a cul-de-sac.

The Commissioners met with Mr. Tustin to review the State Highway Administration's (SHA) proposed Highway Needs Inventory for primary and secondary roads in Worcester County. Mr. Tustin stated that the SHA uses the list as a long-range planning tool. He stated that a project's inclusion on the list does not imply the availability of funding. Mr. Tustin noted that MD Rt. 589 improvements should be moved from the secondary to the primary list in keeping with the Commissioners' transportation priorities expressed in their letter to SHA dated June 5, 2007. Commissioner Boggs agreed. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously agreed to contact SHA Regional Planner Jim Dooley to

request that MD Rt. 589 improvements be transferred to the primary list and to reflect the priorities expressed in their June 5, 2007 letter which declares the dualization of US Rt. 113 as their top priority.

Development Review and Permitting (DRP) Director Ed Tudor updated the Commissioners on the status of Nuisance Abatement Order 07-1, following the declaration by the Commissioners on February 19, 2008 of a property owned by Yancy Baker and located at 1322 Cypress Road in Pocomoke as a public nuisance and providing Mr. Baker with a 60-day extension to remove a trailer and clean up the site. Mr. Tudor stated that DRP Zoning Inspector Lisa Fletcher visited the site weekly since the property was declared a nuisance and found that Mr. Baker had taken the necessary actions to appropriately address the nuisance abatement by removing or otherwise consolidating personal property, which no longer occupies an area greater than 100 square feet. Mr. Tudor stated that a boat and several vehicles had been removed and the trailer he had been living in had been relocated to a site within the fenced area and no longer appears to be used for living quarters. He stated that hopefully the nuisance conditions will not be an issue in the future. The Commissioners thanked Mr. Tudor for providing them with the update.

The Commissioners met with Mr. Tudor to discuss an application for a Critical Area Map correction submitted by Hugh Cropper, Esquire, to reclassify 8.73 acres of land consisting of four parcels from Resource Conservation Area (RCA) to an Intensely Developed Area (IDA). Mr. Tudor stated that the four parcels are located on the south side of US Rt. 50 immediately west of Jerry Mack Road and more specifically are shown on Worcester County Tax Map 26 as Parcels 132, 383, 256 and 133. Following some discussion, the Commissioners unanimously agreed to schedule a public hearing on the application for May 20, 2008.

The Commissioners recessed until 11:00 a.m.

The Commissioners met in Legislative Session.

The Commissioners held a public hearing on Bill 08-1 (Zoning - Spray Irrigation Facilities), which was introduced by Commissioners Boggs, Busick, Church, Cowger, Gulyas, Purnell and Shockley on March 18, 2008. Mr. Tudor reviewed the proposed bill, which would amend Section ZS 1-318(c) by repealing and reenacting the opening paragraph only of this subsection of the Zoning and Subdivision Control Article to specify that the standard regulations for spray irrigation facilities shall not apply to spray irrigation facilities owned or operated by the County or a municipal corporation disposing of Class II effluent as defined by State Code. Standards for all other facilities remain unchanged; and Section ZS 1-318(d) which Renumbers subsections ZS 1-318(d) and ZS 1-318(e) as subsections ZS 1-318(e) and ZS 1-318(f) respectively and adds a new subsection ZS 1-318(d) to establish special requirements for governmentally owned and/or operated spray irrigation facilities in order to provide for the maximum utilization of highly treated wastewater effluent; establishes certain conditions which must be met in order to be regulated by these special requirements including conditions on the

quality of effluent produced, the standards of the wastewater treatment facility, the control of the property on which the treated effluent is stored or disposed, setbacks to the wetted perimeter, and required posting of the wetted perimeter if located within one hundred feet of a property line or structure intended for occupancy. The bill further adds certain governmentally owned spray irrigation fields and storage lagoons to the list of uses and structures permitted by right in the A-1 Agricultural, E-1 Estate, R-1 Rural Residential, M-1 Light Industrial and M-2 Heavy Industrial zoning districts and to the list of uses and structures permitted by special exception in the following zoning districts: V-1 Village, R-2 Suburban Residential, R-3 Multifamily Residential, R-4 General Residential, R-5 Mobile Home, B-1 Neighborhood Business, B-2 General Business and R-O Office District. Mr. Tudor stated that these new regulations would help make it more feasible for the County and municipalities to convert to spray irrigation and therefore implement a major recommendation of the Comprehensive Plan. Mr. Tudor advised that both the Planning Commission and County staff favorably recommended the proposed legislation.

In response to a question by Commissioner Gulyas, Mr. Tudor stated that as the bill is currently written privately-owned systems would not be eligible for this exception unless ownership of the plant was to be turned over to the County. He stated that currently, privately-owned wastewater treatment plants (WWTP) can apply for a reduction to 100 feet for spray irrigation fields. He explained that this legislation is a fundamental shift in the County's approach to spray irrigation, and County staff drafted the bill so as to only apply to publicly operated systems in order to move forward cautiously. Commissioner Church stated that the legislation is excellent, but unbalanced since privately-owned WWTPs are being held to a different standard. He stated that the Planning Commission clearly outlined their intent in the Comprehensive Plan to convert all effluent disposal to spray irrigation, and to do so, privately-owned systems should also be included in the bill. In response to concerns by Commissioner Church, Mr. Tudor stated that in the past, the County has experienced problems with two privately owned WWTPs. He stated that if privately-owned facilities were included in this legislation and chose not to comply with the Maryland Department of the Environment's (MDE) regulations, the County, being the primary permit holder, would be placed in a compromising situation and could be held liable for any violations. Commissioner Boggs concurred and suggested the County move forward cautiously. In response to a question by Commissioner Cowger, Mr. Tudor stated that those developing large WWTPs, such as the Tyson Wastewater Treatment Plant (WWTP) or the Showell WWTP would be able to take advantage of the reduction in setbacks, since they would at some point be turned over to the City or County. He stated that the 300-foot setback for spray irrigation as currently required was put in place largely to quell the public's fear of spray irrigation, odor concerns, and issues related to drift. He stated that all these issues are thoroughly addressed as part of MDE's permitting and monitoring processes, and even if private systems were included in the proposed legislation they would still be required to meet the Class II effluent disposal requirements. He expressed concern that for some privately-owned WWTPs, cutting costs and the "bottom line" could play a role in proper operation of the spray fields. Commissioner Cowger stated that barring privately-owned WWTPs from utilizing the reduced setbacks for spray irrigation facilities

would only create a double standard. Commissioner Gulyas concurred, stating that there was nothing wrong with making a profit, and the privately-owned facilities should be able to utilize the reduced setbacks if they are willing to convert to spray irrigation and meet the same criteria as public systems. Mr. Tudor expressed concern that the County would have to rely on the State for enforcement of such private systems. However, he requested that if the Commissioners were inclined to revise the bill to include private systems that they table the bill and allow staff to carefully revise the language in order to ensure consistency in the code and avoid any unintended consequences.

Commissioner Shockley opened the floor to receive public comment.

Attorney Mark Cropper of Ocean City commended the Commissioners and staff for developing this long-overdue legislation, but stated that privately-owned WWTPs should also be included in the bill. He stated that Worcester County has made very clear its intentions that all WWTPs convert to effluent disposal by spray irrigation in the future. He stated that he supported such a switch and urged the Commissioners to pass legislation that would make it more feasible for developers to do so. He stated that the County maintains control over all WWTPs, both public and private, through the review process. By example, he stated that developer Mark Odachowski spent millions of dollars acquiring land for spray irrigation for the Summerfield project in Snow Hill, making every 25-foot savings in reduced setbacks invaluable. He urged the Commissioners to approve the proposed bill with the condition that privately-owned WWTPs be included as well.

Ellie Diegelman of Ocean City opposed the proposed legislation due to her many unanswered questions and possible concerns.

Mitch Parker, owner of Frontier Town, thanked the Commissioners for considering the bill but stated that privately-owned systems should also be included in the proposed legislation. He stated that spray irrigation is good for the County, and urged the Commissioners to include privately-owned WWTPs in this legislation to create incentives for developers to convert to this method of effluent disposal.

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

County Attorney Sonny Bloxom stated that the intent of the law is very simple, but the wording and assuring that all the pieces fit together in the proposed bill is not. He stated that if the Commissioners wish to include privately-owned WWTPs in this bill, they should direct staff to carefully review the entire bill to determine appropriate amendments that do not conflict with other code sections. Upon a motion by Commissioner Boggs, the Commissioners unanimously remanded Bill 08-1 back to staff to include privately-owned systems for review at their next legislative session on May 20, 2008.

The Commissioners held a public hearing on Bill 08-2 (Building Regulations - Plumbing Standards), which was introduced by Commissioners Boggs, Busick, Church, Cowger, Gulyas, Purnell and Shockley on March 18, 2008. Environmental Programs Director Robert Mitchell reviewed the proposed bill, which would abolish the Worcester County Plumbing Board (WCPB) in recognition that the licensing responsibilities of the

WCPB have been assumed by the State Board of Plumbing. He further advised that the WCPB has not met for the past four years as the duties previously carried out by the board have now been assumed by the State, and the County no longer has any tasks to assign to them.

Commissioner Shockley opened the floor to receive public comment.

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

Upon a motion by Commissioner Purnell, the Commissioners voted unanimously to adopt Bill 08-2 as presented. Upon a motion by Commissioner Boggs, the Commissioners further agreed to send letters to each member of the WCPB thanking them for their past service.

The Commissioners met with Mr. Tudor to discuss an application submitted by Hugh Cropper, Esquire, for the removal of 35.74 acres of land from the Atlantic Coastal Bays Critical Area (ACBCA) as a result of an asserted mapping error on Parcel 28 on Tax Map 10 affecting the inclusion of certain portions of properties in the ACBCA based upon the 1989 Maryland Department of Natural Resources (DNR) Wetland Maps. The subject properties are located on the southerly side of St. Martins Neck Road, approximately one-quarter mile west of Salt Grass Point Road and are shown as Parcels 28, 29, 48, 249, and 302 on Worcester County Tax Map 10. Mr. Tudor stated that County staff worked with the Critical Area Commission staff, the surveyor and staff of various other State agencies and determined that there does not appear to be any significant areas of disagreement between the State Wetlands Maps and the 1989 DNR Wetland Maps, except in this instance where it appears that the pond in question is not tidally influenced. However, the local ordinance refers to only the State Wetlands Maps under the section of the law that described the territory affected. Mr. Tudor further stated that the County must first amend the law to recognize the use of both maps before staff can process the application. He proposed introducing the amendment to the Natural Resources Article, which would clarify the use of the more restrictive of either the State Wetlands Maps or the 1989 DNR Wetland Maps for determination of the ACBCA boundaries, as an emergency bill to be considered during the next legislative session on May 20, 2008, and scheduling the public hearing to consider the alleged mapping error immediately afterward, as the approaching effective date of the recently passed House Bill 1253 is of concern to the applicants. Following some discussion, Commissioners Boggs, Church, Cowger, Gulyas, Purnell and Shockley introduced the aforementioned proposed bill as Emergency Bill 08-3 (Natural Resources – Atlantic Coastal Bays Critical Area). The Commissioners unanimously agreed to hold the public hearing on the bill during their legislative session on May 20, 2008.

Commissioner Shockley closed the Legislative Session.

The Commissioners met with Ocean City Mayor Rick Meehan to discuss tax differential and their grant requests from the County. Mayor Meehan commended Commissioners Boggs, Busick, Church and Gulyas for their attendance at the National Hurricane Conference held in Orlando, Florida and expressed a desire for both County and Town officials to coordinate their efforts to address possible future disasters. He

thanked the Commissioners and staff for meeting with them in December and March to consider the Town of Ocean City's request for a tax differential, though no agreement has been reached. He stated that since it was unlikely that the tax differential issue would be resolved before the Commissioners pass their FY08/09 budget, the town requested additional grant funds to offset town expenditures. Mayor Meehan advised that the FY08/09 requests were similar to last year's, and stated that the specific requests were outlined in their letter to the County, which includes the following grant requests: \$1,243,768 for streets, Convention Bureau, tourism marketing, recreation, downtown redevelopment, police, fire, and undesignated funds; \$1,016,220.55 for emergency medical services; \$3,250,000 for funding to offset the cost of services identified in the Tax Differential Report provided to the Town of Ocean City for police, review and permitting, fire marshal, public works, environmental, recreation, and tourism marketing; and \$500,000 per year for 20 years for debt service to fund property acquisition for a boat ramp, and \$500,000 per year for 20 years to cover debt service for construction of a parking garage. Mayor Meehan expressed support for other towns continuing to receive grants from the County and suggested that grants be based upon a percentage of their assessable base. He also asked the Commissioners to continue their support of the Ocean City Development Corporation (OCDC). Following some discussion, the Commissioners thanked Mayor Meehan for meeting with them.

The Commissioners answered questions from the press, after which they adjourned for lunch at the County Jail with representatives from the Town of Ocean City.

After lunch, the Commissioners reconvened in open session.

The Commissioners discussed the Town of Ocean City's request for a Tax Differential of \$13,894,610, as the Town claims that Ocean City's property owners do not benefit either directly or indirectly from many county services. State law requires that the County declare their intent with regard to the town's tax differential request prior to introducing their budget. If approved, the tax differential would result in a \$0.06 decrease in the real property tax rate or a 9% decrease for all Ocean City property owners. Those living outside of Ocean City would see an increase of \$0.16 in the real property tax rate or a 23% increase. Commissioner Shockley stated that the Commissioners have provided grants to the towns in the past that are both fair and equitable to all residents. Commissioner Cowger concurred, and stated that the tax differential request was not fair to residents in other areas of the County and he could not support it. Commissioners Church and Gulyas agreed. Commissioner Gulyas stated that residents from such diverse areas as Showell, Girdletree and other areas make up a large portion of Ocean City's labor pool, and these are the very people who would shoulder the burden of a 23% tax increase. She promised to fight to help Ocean City secure their requested grants, but stated that she could not support the proposed tax differential they were requesting. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously declined to provide the Town of Ocean City with their requested tax differential.

The Commissioners met with Budget Officer Kathy Whited and Chief Administrative Officer Gerald T. Mason to review the requested Worcester County Operating Expense Budget for Fiscal Year 2008/2009. Mr. Mason provided a summary of the requested operating budget, and stressed that this is only the requested budget. He stated that the estimated general fund revenues based on current tax rates are \$188,251,384. The requested general fund operating expenditures total \$202,666,583. The difference of \$14,415,199 must be reconciled by either reductions in expenditures, additional revenues or a combination of the two. Mr. Mason reviewed with the Commissioners the anticipated general fund revenues, requested general fund expenditures and general fund issues to be resolved. Commissioner Shockley stated that this will be a lean budget year due to anticipated State cuts, but that the Commissioners would not raise taxes. He further advised that the Commissioners' primary task with this budget would be to fund the basic core County services such as education and public safety as well as maintain its current benefit package to County and Board of Education employees. He stated that the Commissioners would not likely fund new positions or new programs and may have to cut back on some existing programs. He informed those in attendance that school construction projects, though not part of the BOE budget, are funded by the County too. He stated that during the past 10 years, the County has provided funding for construction of Stephen Decatur High and Middle Schools, and Ocean City Elementary School, and is in the process of constructing a new Worcester Technical High School, which requires annual County funding of \$2.14 million for the next 15 years to cover debt service, and is moving forward with plans to renovate and expand Pocumoke High School. He concluded that every dollar spent on debt service is a dollar that cannot be spent in the classroom.

The Commissioners informed the audience of the public hearing on the budget scheduled for May 6, 2008 at 7:00 p.m. in the Snow Hill High School auditorium, as well as the upcoming budget work sessions, and advised that these sessions are open to the public.

The board adjourned to meet again on May 6, 2008.