

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

June 16, 2009

Louise L. Gulyas, President (Absent)  
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, with Commissioner Gulyas absent and Commissioner Cowger voting in opposition, the Commissioners voted 5-1 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; and George Bradley, Director of Human Resources. Topics discussed and actions taken included: discussing personnel matters; reappointing Robert Hawkins to the Solid Waste Advisory Committee; 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 Church called the meeting to order and announced the topics discussed during the morning closed session.

Commissioner Church announced that Commissioner Gulyas was absent from the meeting.

The Commissioners reviewed and approved the minutes of their May 20 and May 26, 2009 budget work sessions and their June 2, 2009 meeting, as presented.

Finance Officer Harold Higgins met with the Commissioners to review the draft Worcester County Other Post Employment Benefits (OPEB) Trust Investment Policy. Mr. Higgins stated that the County has met the goal to have the investment trust in place by June 30, 2009, and the next part of the process requires the following: further definition of the trust's asset allocation model, which assumes a 10% Cash or Cash Equivalents, 40% Equities, and 50% Bonds distribution with a projected return of at least 7.5%; hiring an investment firm; and putting the OPEB Trust Committee in place. In response to questions by Commissioner Shockley, Mr. Higgins stated that unlike the State, which purchased equities at a high point in the market and lost large sums of money when stock prices dropped, the County would be

purchasing equities that have reached historic lows and should limit losses. He further stated that the 7.5% rate of return is based on a 15 to 20 year investment and must be viewed over the long term rather than any one snapshot in time. He urged the Commissioners to look at the County's stable approach, which includes long term, low risk investments versus the more aggressive investments, which pose substantial risks. Commissioner Church advised Mr. Higgins to be prudent with regard to these investments. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously approved the proposed OPEB Investment Policy.

Pursuant to the request Mr. Higgins and Information Technology (IT) Manager Allan Taylor and upon a motion by Commissioner Boggs, the Commissioners unanimously agreed to waive the standard bid process and piggyback on a State of Maryland Hardware Master Contract bid through Digital Intelligence Systems Corporation of Chantilly, Virginia to purchase IT equipment for the new State's Attorney's Building at a cost of \$39,831.

The Commissioners met with Mr. Higgins and Mr. Taylor to discuss Phase I of the Worcester County Connectivity Plan. Commissioner Shockley excused himself from the discussions due to a potential conflict of interest as Chair of the Maryland Broadband Cooperative. Mr. Higgins summarized the project, advising that plans for Phase I include providing a County-owned, high speed fiber infrastructure between various County owned buildings within the Snow Hill area for computer based services to County departments. He stated that after contacting several vendors, it was determined that the County would receive the best possible and most cost-effective, comprehensive plan and infrastructure design for the project by waiving the standard bid process and awarding the two-part project as follows: awarding the contract to Sure Shot, Inc. of Centerville, Maryland to connect the Worcester County Government Center to the Recreation Center/Jail Campus at a cost of \$120,321.00; and contracting with Maryland Broadband Cooperative which has a contract with Adesta of Washington, D.C. to connect Public Works to the Recreation Center at a cost of \$72,701.15. He advised that by taking this approach the Jail would be tied in with the same rather than a separate server, and for that reason asked the Commissioners to reallocate \$50,000 of the \$92,900 budgeted for new IT equipment at the County Jail to fund a portion of this project. In response to a question by Commissioner Boggs, Mr. Taylor advised that, with the \$50,000 allocation from the Jail project, funds are available for this project. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously agreed to waive the standard bid process and to award the contract for both portions of the project as requested.

Pursuant to the request of Vincent E. Tolbert, CPA, Chief Financial Officer for the Board of Education (BOE), and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Gulyas to sign the BOE's Annual Budget Certification Statement, which the BOE is required to submit to the Maryland State BOE detailing County funds appropriated for FY10, which include \$71,954,064 for BOE expenses and \$9,190,492 for Debt Service for BOE projects. Commissioner Shockley directed staff to determine how much funding was reallocated for textbooks under materials of instruction, a category that was cut drastically by the BOE early on.

Upon a motion by Commissioner Purnell, the Commissioners unanimously adopted Resolution No. 09-12, adopting Sanitary Service Area Budgets, Assessments and Charges and Establishing Classifications for July 1, 2009 through June 30, 2010 as conceptually approved after their public hearing on June 2, 2009.

Public Works Deputy Director John Ross presented the Commissioners with a proposal to amend the hours of operation at the Central Landfill in Newark following formal notification that the Town of Ocean City has signed a contract to have the town's solid waste picked up and hauled out of state by a private company for a period of three years, which will reduce revenues at the Central Landfill by about \$1,550,000 and significantly reduce the volume of waste at the landfill. Mr. Ross noted that the Landfill currently operates from 8:00 a.m. to 4:00 p.m. seven days a week. He proposed closing the Central Landfill at noon each Saturday and remaining closed through Sunday. Mr. Ross proposed no changes to the hours of operation from Monday through Friday. In response to a question by Commissioner Boggs, Mr. Ross stated that there would be no change in the hours of operation at the transfer stations at this time. Following some discussion and upon a motion by Commissioner Shockley, the Commissioners unanimously approved amending the hours of operation at the Central Landfill as recommended.

Upon a motion by Commissioner Purnell, the Commissioners unanimously adopted Resolution No. 09-13, adopting the Solid Waste Enterprise Fund Budget and Fees for July 1, 2009 through June 30, 2010 as conceptually approved after their public hearing on June 2, 2009 and which includes an increase to the Solid Waste tipping fee from \$60 per ton to \$65 per ton. Mr. Mason explained that the budget had been reduced to \$5,570,613 to reflect reduced revenue from the Town of Ocean City's waste.

Enterprise Fund Controller Jennifer Savage informed the Commissioners that four Solid Waste Employees chose to take advantage of the retirement incentive being offered by the County, and another employee resigned earlier in the year, which has helped to decrease operating costs in the Solid Waste Division of Public Works. In response to a question by Commissioner Shockley, Landfill Superintendent George Dix advised that the County sells a portion of the mulch generated at the Landfill and uses another portion as covering for the Landfill. Commissioner Cowger noted that staff has borrowed a million dollars from enterprise reserve funds to balance the Solid Waste Budget over the past two years and asked if staff had a plan in place to balance the budget without continuing to draw from these funds in the future. In response to a question by Commissioner Cowger, Public Works Deputy Director advised that between the employees who chose to accept the retirement incentive and the increased life expectancy of Cell 4 following the withdrawal of the Town of Ocean City from the Landfill, the Solid Waste budget appears to be right on track with balancing revenues and expenses. He stated that extending the life of the Landfill would equate to a savings of roughly \$400,000. Ms. Savage confirmed that the Solid Waste budget has been downsized considerably to avoid the need to borrow from reserve funds in the future.

Pursuant to the request of Health Department staff and Mr. Ross and upon a motion by Commissioner Boggs, the Commissioners unanimously agreed to waive the standard bid

requirements and piggyback on a State bid from Hertrich Fleet Services, Inc. of Milford, Delaware to purchase one 2009/2010 Ford Focus with funds from the Alcohol and Drug Abuse Administration grant at the contract price of \$13,567.00 for use by the Health Department.

Pursuant to the request of Mr. Ross and upon a motion by Commissioner Boggs, the Commissioners unanimously approved the list of Waterway Improvement Project Grant applications for the FY11 budget in the following order of priority: \$99,000 for relocation of finger piers and ramp at South Point Landing; \$99,000 for replacement of existing finger piers and ramps at Cedar Hall Landing; \$49,000 for general repairs at all locations; \$50,000 to resurface existing parking lot at Shell Mill Landing; \$25,000 to resurface existing parking lot at Mason Landing; and \$25,000 for sanitary services and trash removal at all locations. In response to a question by Commissioner Boggs regarding the amount of grant funding staff expects to receive given the State deficit, Mr. Ross advised that two of the five projects on the FY10 grant application received funding. He further advised that the County expects to receive approximately \$525,000 in federal funding to help construct a new ramp at the West Ocean City harbor. In response to a question by Commissioner Church, Mr. Ross advised that the order of priority for this year's projects was based upon priorities set by the Commissioners last year. He further advised that the County has set aside some grant funds for projects at Cedar Hall and South Point and hopes to be awarded enough additional funding this year to move forward with these projects.

The Commissioners met with Mr. Ross to review a proposal for design revisions from George, Miles and Buhr (GMB) of Salisbury, Maryland for the following design changes for the Showell Elementary School (SES) sewer and water connection project: design of the waterline to serve SES at a cost of \$10,800; design of connection from SES to the pump station at a cost of \$1,400; and survey work to redirect the sewage force main to Station G at a cost of \$3,370. Mr. Ross advised that the prior design was for the sewer connection only. However, the nitrate levels, though still within permissible levels, are rising. He confirmed that it has been the Commissioners' intention to provide public water to SES and recommended approving the proposal as submitted. In response to a question by Commissioner Shockley, Mr. Ross stated that the new plans will include locating the pump station on the SES property. In response to a question by Commissioner Boggs, Mr. Ross stated that with these new plans it would be possible to tie the Showell Park into public water and sewer in the future. Following some discussion and upon a motion by Commissioner Busick, the Commissioners unanimously approved the proposal as presented.

Pursuant to the request of Mr. Ross and upon a motion by Commissioner Purnell, the Commissioners unanimously approved a proposal from Johnson, Mirmiran & Thompson (JMT) of Sparks, Maryland for the final design of the Mystic Harbour Wastewater Treatment Plant at a cost of \$641,120. Mr. Ross advised that the final design would include the following: preparation of 60% design documents; preparation of 90% design documents; preparation of final bidding documents; application for needed permits; assistance with project bidding and contract award; and surveying of the site and preparation of deed descriptions for property transfers. He further advised that funding for the design would come from the interim loan for

this project and would ultimately be included in the final project financing package.

Mr. Ross met with the Commissioners to review a letter from Sean Callahan, Principal with Lane Engineering, LLC of Easton, Maryland, which is assisting the Maryland Broadband Cooperative (MBC) to perform work within the US Rt. 113 right of way (ROW) related to directional boring under wetlands and other work near wetlands in the Atlantic Coastal Bays Critical Area (ACBCA). Commissioner Shockley excused himself from the discussions due to a potential conflict of interest as Chair of MBC. In his letter, Mr. Callahan proposed to plant 20 trees at the Langmaid Borrow Pit to fulfill the requirements of the ACBCA Law. Mr. Ross advised that Public Works and Development Review and Permitting staff have no objections to the proposal as it will not interfere with Public Works operations or the Sheriff's Office Firing Range on this property. Following some discussion and upon a motion by Commissioner Purnell, the Commissioners unanimously approved the request.

Pursuant to the recommendation of Development Review and Permitting (DRP) Director Edward A. Tudor and upon a motion by Commissioner Boggs, the Commissioners unanimously agreed to renew the Independent Contractor's Agreement between Shockley Environmental Services (Bobby Shockley) and Worcester County for the review and recommendation of approval, denial or revision of Stormwater Management Plans and applications for exceptions and waivers through June 30, 2010. Mr. Tudor explained that the agreement had been revised from the previous year to reflect the agreement that Mr. Shockley be paid 50% of the prescribed rate for review of County projects.

The Commissioners reviewed an email from Roman Jesien, of the Maryland Coastal Bays Program (MCBP), asking the Commissioners to submit a letter to the US Army Corps of Engineers, Baltimore District regarding their recent dredging operation at the Isle of Wight Channel and asking them to abide by the restrictions of the National Marine Fisheries Service regarding the time of year restrictions to protect larval and early juvenile summer flounder. In his correspondence, Mr. Jesien acknowledged that the dredging, which was completed during a time when dredging is restricted, is a beneficial service; however, the Corps of Engineers should be required to adhere to the time restrictions currently in place, which are between April 1 and June 30 of each year. The Commissioners agreed to send the requested letter, first thanking them for the beneficial service they provide and asking them to abide by the time of year restrictions in the future.

Pursuant to the request of Comprehensive Planning Manager Sandy Coyman and upon a motion by Commissioner Boggs, the Commissioners unanimously authorized staff to submit a Maryland Coastal Bays Program (MCBP) grant application to provide a land stewardship workshop to all interested Worcester County landowners in fall 2009. Mr. Coyman advised that the County conducted similar workshops in September 2007 and 2008. He advised that the grant would cover all workshop materials and expenses, and he proposed charging a \$7.00 fee for attendance to cover the cost of providing lunch during the workshop.

Pursuant to the request of Fire Marshal Jeff McMahan and upon a motion by

Commissioner Busick, the Commissioners unanimously adopted Resolution No. 09-14 amending fees for Fire Marshal Plan Review and Inspection Services. Mr. McMahon clarified that the current fee rates have not increased; however, the Resolution includes the addition of a Technical Review Committee (TRC) Fee, imposing a \$100 fee payable to Development Review and Permitting; Fireworks Display Permits, imposing a \$250.00 fee payable to the County Fire Marshal's Office with all public fireworks display applications; an underground water supply main inspection fee of \$50 per main; a commercial kitchen hood systems inspection fee of \$100 per hood system; and a nuisance fee for responses to non-permitted outdoor burns of \$250 per hour, per piece of apparatus responding.

The Commissioners met in Legislative Session.

The Commissioners held a public hearing on Bill 09-2 (Public Safety - Fire Prevention Code Violation Types), which was introduced by Commissioners Boggs, Busick, Church, Cowger, Gulyas and Purnell on May 19, 2009. Mr. McMahon reviewed the proposed bill, which establishes categories of infractions for Fire Prevention Code violations.

Commissioner Boggs stated that with the passage of today's series of bills from the Fire Marshal's Office, the County should take full advantage of the opportunity before them to educate the public about nuisance alarms and the types of permitted and restricted outdoor burnings. Mr. McMahon agreed to assist in drafting press releases and meeting with town officials and citizens to improve education regarding these laws. In response to a question by Commissioner Shockley, Mr. McMahon stated that residents are permitted to burn brush and trash that was generated on their own property without a permit, provided the owner remains with the fire until it is extinguished. He stated, however, that even though such burning is permitted, the County must respond to any 911 calls concerning outdoor burning.

Commissioner Church opened the floor to receive public comment.

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

Upon a motion by Commissioner Shockley, the Commissioners unanimously adopted Bill 09-2 (Public Safety - Fire Prevention Code Violation Types) as presented.

Commissioner Church temporarily adjourned the Legislative Session.

Pursuant to the request of Mr. McMahon and upon a motion by Commissioner Shockley, the Commissioners unanimously adopted Resolution No. 09-15 concerning fire prevention code violations and amending related fines.

The Commissioners resumed their Legislative Session

The Commissioners held a public hearing on Bill 09-3 (Public Safety - Nuisance Alarms), which was introduced by Commissioners Boggs, Busick, Church, Cowger, Gulyas, Purnell and Shockley on May 19, 2009. Mr. McMahon reviewed the proposed bill, which establishes regulations regarding false alarms/nuisance alarms for fire and medical services to which the County's public safety agencies respond and providing for fees for such services. Mr. McMahon stated that the types of nuisance alarms would include false fire and medical alarms. He stated that the measures provided for in the bill would be used as a deterrent and hopefully save County resources by decreasing the number of calls to which area fire agencies respond. Mr. Mason reviewed proposed amendments to Bill 09-3, which includes minor amendments to

Subsection PS 1-411 (b) as proposed by the County Attorney. Commissioner Boggs stated that it is important to let people know how costly it is for public safety officials to respond to nuisance alarms.

Commissioner Church opened the floor to receive public comment.

John Medlin of Ocean City suggested amending Nuisance Response (b)(3) to within a 12-month period instead of within one calendar year period. He further suggested that fees for two responses in a 24-hour period were too stringent, but suggested that fines be increased to \$500 or \$1,000 for repeat offenses.

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

Upon a motion by Commissioner Boggs, the Commissioners unanimously approved the amendments recommended by staff as well as an additional amendment to remove the term “or more” from Section PS 1-411 (b)(3) and directed that the Bill be officially amended before formal adoption.

The Commissioners held a public hearing on Bill 09-4 (Public Safety - Special Hazards Response Team), which was introduced by Commissioners Boggs, Busick, Church, Cowger, Gulyas, Purnell and Shockley on May 19, 2009. Mr. McMahon reviewed the proposed bill, which establishes the Special Hazards Response Team (SHRT) as a County function/organization and establishes a mechanism for recovering expenses during the mitigation, containment and cleanup of hazardous substance incidents.

Commissioner Church opened the floor to receive public comment.

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

Upon a motion by Commissioner Shockley, the Commissioners unanimously adopted Bill 09-4 (Public Safety - Special Hazards Response Team) as presented.

Upon a motion by Commissioner Purnell, the Commissioners unanimously approved the amendments to Bill 09-3 (Public Safety - Nuisance Alarms) as presented. Upon a motion by Commissioner Shockley, the Commissioners unanimously adopted Bill 09-3 as amended.

Commissioner Church closed the legislative session.

Commissioner Church explained that item 21, which proposed a new name for the consolidated departments of Development Review and Permitting, Comprehensive Planning, and Environmental Programs would be deferred until the Commissioners’ July 7, 2009 meeting as a courtesy to Commissioner President Gulyas who was absent from the meeting.

The Commissioners answered questions from the press, after which they adjourned to tour the new State’s Attorney Building and to meet again on July 7, 2009.