

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

March 3, 2009

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

The Commissioners conducted a personnel disciplinary hearing in open session at the request of the employee.

The Commissioners held a personnel disciplinary hearing for Anthony de St. Hippolyte, Building Administrator within Development Review and Permitting (DRP), for violating the Worcester County Personnel Rules & Regulations, Section 9.01 D (3), (4) and (5) with respect to substandard performance, inability or failure to perform duties or job descriptions, and flagrant or habitual lateness, absenteeism, or failure to be at his place of assignment. As a result of these violations, Mr. St. Hippolyte was suspended with pay on February 12, 2009 pending a scheduled discharge hearing with the Commissioners. Also present at the hearing were Human Resources Director George Bradley, DRP Director Ed Tudor, DRP Building Administrator Mr. St. Hippolyte and his attorney, William H. Schladt.

Mr. Bradley advised that Mr. St. Hippolyte had been employed with the County for more than 10 years. However, over the course of the last 18 to 20 months he had been habitually late to work, failed to set a positive example for the employees he supervises, spent an inordinate amount of time in personal discussions while at work, received an excessive number of phone calls on a County cell phone and failed to complete tasks accurately or in a timely manner. Mr. Bradley explained that he and Mr. Tudor met with Mr. St. Hippolyte on a number of occasions during the last six months in an effort to help him resolve these problems and to help him set realistic deadlines to complete the required tasks and achieve job success. Mr. Bradley noted that both Mr. Tudor and he granted Mr. St. Hippolyte a great deal more leniency in resolving these work related issues than they would otherwise due to several health and personal problems that he was experiencing during the same time period. In fact, they had permitted Mr. St. Hippolyte to set his own timetable for completing his tasks, namely the rewriting of the County's building codes, a project that was first assigned to him during summer of 2007 and which he had failed to start. However, after several months it was apparent that Mr. St. Hippolyte was making no effort to improve his job performance or complete the project.

Mr. Tudor stated that he first discussed the need to update the commercial and residential building codes during early summer 2007, at which time Mr. St. Hippolyte enthusiastically agreed to perform the task of updating these codes. Mr. Tudor stated that he explained to Mr. St. Hippolyte the nature of the work, and based on their discussions, had fully anticipated that a first draft would be available for his review by the end of 2007 Although various casual conversations

over the ensuing months led him to believe that the work was ongoing, Mr. Tudor advised that he met with Mr. St. Hippolyte on June 26, 2008 at which time he learned that Mr. St. Hippolyte had not even started the project. Mr. Tudor stated at that time he also counseled Mr. St. Hippolyte on a number of other issues that were also negatively affecting his job performance, such as failing to arrive at work on time, the need to complete tasks accurately or in a timely fashion, and his responsibility to serve as a positive example to the employees he supervises. Mr. Tudor noted that this meeting included directing Mr. St. Hippolyte to set a realistic timetable for the revision of the building codes, which he made clear was his primary responsibility. He noted that Mr. St. Hippolyte provided a written schedule showing the work would begin in earnest on July 1, 2008 and be completed twelve weeks later on September 19, 2008. Mr. Tudor advised that he again spoke with Mr. St. Hippolyte on September 12, 2008 about the inordinate amount of personal, vacation and sick leave he was using, which was keeping him from completing his normal work load as well as the building code project. He also reminded Mr. St. Hippolyte of his need to set a positive example, arrive at work promptly, stop idle chatter (particularly that dealing with his personal issues). Mr. Tudor also expressed concerns over what appeared to be his total lack of attention to everyday details. He further stated that after he spoke with Mr. Bradley concerning Mr. St. Hippolyte's well-being, especially as it pertained to his operation of a County vehicle, Mr. Bradley scheduled him for a Fitness for Duty evaluation later that month. Mr. Tudor made it clear that until that situation was resolved he did not request an update of progression on the code work again from Mr. St. Hippolyte until mid-November 2008 and at which time he was assured that the project would be complete by the year's end. Mr. Tudor advised that on December 31, 2008 he inquired as to whether the project had been completed. Later that afternoon, Mr. St. Hippolyte handed him nothing more than some blacked-out copies of Caroline County's local law and some marked-up copies of information from the internet. Mr. Tudor explained that he met and provided Mr. St. Hippolyte with a contact plan on January 9, 2009, which among many other disciplinary measures, required him to immediately surrender the County cell phone and complete the promised code work by January 16, 2009. On January 14, Mr. St. Hippolyte provided Mr. Tudor with a new timeline to complete the project by June 2009, but still had not surrendered his County cell phone. On Friday, January 16, Mr. Tudor met with Mr. St. Hippolyte and provided him with another contact plan, which was in response to the events occurring since their last meeting. At that time, Mr. Tudor explained that he had no confidence in Mr. St. Hippolyte's ability to comply with his requests.

Following the meeting on January 16, and after attempting unsuccessfully for more than a week to schedule a meeting with Mr. St. Hippolyte, Mr. Bradley and Mr. Tudor finally met with him on January 27, 2009, at which time Mr. St. Hippolyte was advised that it appeared that he had no desire to resolve the situation and that he would be scheduled to appear at a disciplinary hearing before the Commissioners. Mr. Tudor strongly cautioned Mr. St. Hippolyte at that meeting that his job performance in the interim would determine whether he would recommend termination of employment or some other disciplinary action. However, Mr. St. Hippolyte appeared to disregard this warning and continued to arrive late to work and failed to adequately complete assignments.

Therefore, he was suspended with pay on February 12, 2009 pending a scheduled discharge hearing with the Commissioners on March 3, 2009.

Mr. Schladt advised that his client had worked for a 10-year period up to and including the end of December 2008 and had never received a written warning or disciplinary action of any kind in the performance of his duties. He stated that Mr. St. Hippolyte's first written notice that disciplinary action was being taken against him did not occur until January 9, 2009 and listed the following four items as unacceptable behaviors: excessive personal use of a company cell phone; excessive idle chatter interfering with the work of others; report to work on time regardless of time spent working in the evening; and complete and submit professional work product for the update of the building codes by the close of business on January 16, 2009. He stated that the second written notice came a week later on January 16, 2009 and included the following three items as unacceptable behaviors: failure to return a cell phone to the department head; failure to submit professional work product for the update of the building codes by the close of business on January 16, 2009; and failure to post an updated staff calendar as verbally directed on January 9, 2009. Mr. Schladt stated that Mr. St. Hippolyte did agree that he needed to complete these items, but does not believe that discharge is an appropriate disciplinary action for these first time offenses. He stated that Mr. St. Hippolyte's 10 years of service is suddenly being negated based solely upon what can only be described as minor infractions. He advised that Mr. St. Hippolyte has been described by employees and citizens as a problem solver, not a problem maker. However, last summer his wife became very ill and was hospitalized, requiring him to care for the needs of their adult son who has autism. Mr. Schladt advised that it was during that same time period that Mr. St. Hippolyte developed health problems of his own and these events had conspired to cause the situation before them today. He stated that six months of performance problems should not weigh against 10 years of outstanding service to the County. He concluded by stating that misconduct requires progressive discipline over time, which has not been afforded to Mr. St. Hippolyte.

Bruce Miller, a Building Inspector/Plan Reviewer III within DRP, testified that he had known Mr. St. Hippolyte for nearly 10 years as a friend and worked under him for the past five years. He stated that Mr. St. Hippolyte is a good supervisor who had always been available to assist employees in resolving problems. He advised that in recent weeks he had begun assisting Mr. St. Hippolyte in the completion of the code updates and that the project was now finished. He advised the Commissioners that he admires Mr. St. Hippolyte and asked them to allow him to keep his job.

Mr. St. Hippolyte stated that in his wildest imagination he never thought he would be appearing before the Commissioners for a discharge hearing. He stated that working for the County has been his very essence, and he loved being caught up in the day to day activities of his office. He stated that he worked hard to provide outstanding service to the citizens of the County, but noted that it had become difficult for him to complete many daily activities following the institution of the computer age, as he lacked the skills needed to work with this new medium. He further stated that in 2007 he had commented that the building codes needed to be updated and had offered to take on this task, since Mr. Tudor had been unable to do so. He stated that unlike Mr. Tudor, he had not been sequestered to complete this project and had been unable to fit the additional work in with his already tight schedule. He reviewed several health and personal problems that had further interfered with his ability to complete his required tasks and asked the Commissioners not to terminate his employment with the County.

In response to questions from Mr. Bradley, Mr. St. Hippolyte admitted that he had met

with both Mr. Bradley and Mr. Tudor on many occasions over the last six months to address the numerous issues related to his poor job performance. Commissioner Shockley advised that everyone has problems and that he could empathize with Mr. St. Hippolyte. However, Mr. St. Hippolyte had volunteered and been entrusted with the responsibility to complete the required code updates, and he had failed to do so in a timely manner. In response to a question by Commissioner Gulyas, Mr. St. Hippolyte advised that recently he asked for and received administrative assistance to help him complete the project. In response to a question by Commissioner Boggs, Mr. St. Hippolyte stated that he didn't think that arriving a few minutes late to work on occasion was a problem. Commissioner Boggs noted that as a supervisor Mr. St. Hippolyte had failed to exercise overall responsibility or set a good example for his staff despite Mr. Tudor's ongoing attempts to help him achieve success. She stated that no one denies that he has faced a horrific year. However, she saw no effort on his part to improve his job performance. Commissioner Church concurred, stating that if Mr. St. Hippolyte felt that he was in over his head with this project than somewhere along the line he should have asked for help. Commissioner Cowger stated that DRP is one of the most important departments in the County, and the work therein must be done accurately and in a timely manner.

Commissioner Gulyas acknowledged the presence of Mary St. Hippolyte and her daughter Marie, Captain Caldwell and Rainy Caldwell, all of whom appeared at the discharge hearing in support of Mr. St. Hippolyte.

On closing arguments, Mr. Schladt argued that if the Commissioners proceed with the recommendation of staff to terminate his client, they will be violating the Worcester County Personnel Rules and Regulations, which state that discipline "shall" be progressive, and no such progressive disciplinary action has occurred. He stated that Mr. St. Hippolyte received three quick memos and was then recommended to be discharged. He advised that if the Commissioners do choose to fire Mr. St. Hippolyte that they should provide him with a copy of the correspondence from Mr. Tudor to the Commissioners outlining the progression of steps taken against Mr. St. Hippolyte. In response to a question by Commissioner Cowger, County Attorney Sonny Bloxom advised that the Commissioners are well within their legal rights to terminate Mr. St. Hippolyte based on the gravity of the situation. He stated that in this case the department head, the Human Resources Director and the Chief Administrative Officer have all recommended terminating Mr. St. Hippolyte's employment with the County. With regard to whether the Commissioners can determine what course of action to take while in open session, Mr. Bloxom advised that Mr. St. Hippolyte requested the hearing be held in open session, and as such they were well within their rights to determine what course of action they would take in either open or closed session. In response to a question by Commissioner Busick, Mr. Tudor stated that he spoke to Mr. St. Hippolyte at least every six months for the 20 months during which he was supposed to be working on the Code update. Mr. Tudor explained that he advised Mr. St. Hippolyte to think long and hard about the deadlines that Mr. St. Hippolyte himself set for completion of the Code update, as he would be expected to comply. Following much discussion and upon a motion by Commissioner Boggs, the Commissioners voted unanimously to discharge Mr. St. Hippolyte from employment with the County effective immediately.

The Commissioners recessed for five minutes.

Commissioner Gulyas called the meeting to order at 10:40 a.m. and explained that an employee discharge hearing held in open session at the request of the employee himself had resulted in the delayed start of the scheduled open session items. She further noted that the Commissioners would meet in closed session later that day following the completion of the open session.

The Commissioners reviewed and approved the minutes of their February 17, 2009 meeting, as presented.

The Commissioners presented Worcester County Commission for Women (CFW) President Linda Skidmore and CFW member Rita Lawson with a proclamation recognizing March as Women's History Month and encouraged citizens to recognize that women of every race, class and ethnic background have made significant contributions to the growth and strength of Worcester County and throughout the nation. Ms. Skidmore invited the Commissioners to attend the annual Women's History Month luncheon on March 18, 2009.

Pursuant to the recommendation of SPN Project Manager John Catanzaro and upon a motion by Commissioner Boggs, the Commissioners unanimously awarded the best bid for the purchase of medium efficiency washers to Easco Professional Laundry of Salisbury, Maryland at a cost of \$56,970 for Option No. 1, which provides three 165 G Force washers and two 145 G Force washers. Mr. Catanzaro explained that though the medium efficiency washers cost slightly more money than standard efficiency models initially, they will cost approximately \$4,647.38 less per year to operate, resulting in a payback of the additional purchase price in less than one year.

Scott Fazekas, Director of Communications for BAE Systems of Rockville, Maryland presented the Commissioners with a check for \$5,000 to be applied to the Step Up internship program, which provides internships at NASA Wallops for local high school and college students to prepare them for careers in the fields of science, technology, engineering and math. Economic Development Director Jerry Redden explained that the internship program had grown from only nine students when it began four years earlier to 170 students. He stated that businesses like BAE Systems recognize the value of the internship program and are stepping up to the plate to help cover the cost of training them. Brenda Dingwall, the Equal Employment Officer for the Goddard Space Center at NASA Wallops, thanked the Commissioners and representatives of BAE Systems for their commitment to the program and advised those in attendance that more than 50% of the students who participate in the program have gone on to pursue related careers. She stated that the program has been so successful locally that NASA officials plan to implement it nationally. Following some discussion, the Commissioners thanked Mr. Fazekas and his associates for their generous donation to the Step Up program.

Pursuant to the written recommendation of Environmental Programs Director Bob Mitchell and the concurrence of Development Review and Permitting Director Ed Tudor and upon a motion by Commissioner Shockley, the Commissioners unanimously approved a request from the Ocean City Department of Public Works to provide inspection coverage by the County

for a period of approximately three weeks per year to the town during times their inspector is on vacation. Mr. Tudor advised that the Town of Ocean City would reimburse the County for the inspector's salary. He further stated that the County provides a similar service to the Town of Snow Hill and does not anticipate this request to cause any disruption to current operations.

Pursuant to the request of Recreation and Parks Director Sharon DeMar Reilly and upon a motion by Commissioner Boggs, the Commissioners unanimously approved bid specifications for concession stand privileges at the Showell Park for a period of two years.

Pursuant to the recommendation of Mr. Tudor and upon a motion by Commissioner Purnell, the Commissioners unanimously approved the use of up to \$8,500 in Forest Conservation Fee-In-Lieu funds for the purchase and installation of plant material at John Walter Smith Park in Snow Hill from both the Maryland Department of Natural Resources (DNR) Maryland Tremendous Tree Program (MTTP) and Bruce Nichols of Hebron. Mr. Tudor explained that the materials would be used to help screen some incompatible uses and to enhance the forest conservation areas already restricted on the site. In response to a question by Commissioner Shockley, Mr. Tudor explained that the trees purchased from the MTTP would be shipped from Burtonsville, Maryland. In response to a question by Commissioner Gulyas, Natural Resources Administrator Chris McCabe advised that the trees would be planted in spring 2009.

The Commissioners met with Public Works Director John Tustin to review a letter from A. Hussain Alhija, Chief of the Design and Certification Division of the Maryland Department of the Environment (MDE), tentatively approving the draft Worcester County Comprehensive Solid Waste Management Plan as submitted to MDE in October 2008 and requesting the County to conduct a public hearing and adopt the plan prior to May 4, 2009. Mr. Tustin advised that key components of the plan include the design and permitting of Cell 5 and reclamation and mining of Cell 1 at the Central Landfill facility. Following some discussion and upon a motion by Commissioner Busick, the Commissioners unanimously agreed to schedule a public hearing to receive public comment on the draft Solid Waste Management Plan to be held on April 21, 2009.

In a related matter and at the request of Commissioner Shockley, Mr. Tustin agreed to contact MDE to pursue the possibility of conducting the annual Citizens Scrap Tire Drop Off Day on a semi-annual basis due to the success of this program.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Boggs, the Commissioners unanimously declared the proposed list of County vehicles and equipment to be surplus property and agreed to advertise the proposed disposal by auction on GovDeals.com.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Busick, the Commissioners unanimously approved construction documents for the Bishopville Homeowners Drop-off Facility with the caveat that preference would be given to Worcester County contractors for award of the bid. Mr. Tustin advised that \$750,000 was available within the Landfill's capital projects budget for this project. In response to a question by Commissioner Busick, Mr. Tustin stated that the project could be completed within 150 days from the start of construction, and the

official opening would likely take place during mid-fall 2009. In response to the request of Commissioner Cowger, Mr. Tustin agreed that in addition to providing the required public notice that letters of solicitation to potential bidders would be limited to contractors located within Worcester County. County Attorney Sonny Bloxom confirmed that it was within the rights of the County to send letters soliciting potential bidders to local contractors only provided the County adheres to the public notice requirements. He further stated that the Commissioners can consider the local presence of bidders in awarding the contract to the best bidder. In response to the request of Commissioner Cowger, Mr. Tustin agreed to accelerate the schedule for the bid process in order to award this work as soon as possible.

The Commissioners answered questions from the press.

Following a motion by Commissioner Purnell, seconded by Commissioner Busick, the Commissioners unanimously voted to meet in closed session at 11:30 a.m. in the Commissioners' Meeting 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 Ed Tudor, Director of Development Review and Permitting. Topics discussed and actions taken included: appointing John Glorioso to the Economic Development Advisory Board and Betty McDermott to the Agricultural Reconciliation Board; reviewing potential and pending litigation; receiving legal advice from counsel; and performing executive actions.

Following the closed session, the Commissioners reconvened in open session to announce the topics discussed during the closed session, after which the Commissioners adjourned to meet again on March 17, 2009.