

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

March 17, 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

Following a motion by Commissioner Purnell, seconded by Commissioner Boggs, 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; and Kim Moses, Public Information Officer. Topics discussed and actions taken included: reappointing Beth Gismondi to the Board of Zoning Appeals; appointing Eloise Henry Gordy to the Commission for Women; 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 March 3, 2009 meeting, as presented.

The Commissioners presented a commendation to Stephen Decatur High School student Kara Brower in recognition of her service as Worcester County's Page to the 2009 Maryland General Assembly.

The Commissioners met with Nichol Washington, Kimion Johnson and Elizabeth Habic of the Maryland State Department of Transportation (MDT) State Highway Administrations (SHA) and US Rt. 50 Crossing Study consultant Scott Holcum to review the proposed alternative for the rehabilitation or replacement of the U.S. Route 50 crossing into Ocean City known as the Harry W. Kelly Memorial Bridge, which is said to have a remaining life span of approximately 15-20 years. Mr. Holcum provided background regarding the age and history of the bridge. Ms. Washington reviewed the five alternatives ranging from repair to replacement of the bridge as follows: Alternative 1 - no build, with continued life expectancy of 15-20 years; Alternative 2 - bridge rehabilitation, with a continued life expectancy of 25 years; Alternative 4 Modified - modified, fixed span bridge, with a 45' clearance, that would meet in Ocean City between Philadelphia Avenue and Baltimore Avenue; Alternative 5 - south parallel bridge, with a 30' clearance, that would permit 70% of existing boat traffic to clear the bridge and another 30% to

require passage through the draw span, although less frequently than now; and Alternative 5A - north parallel bridge span with 30' clearance as in Alternative 5, but located on the north side of the existing bridge.

Ms. Washington advised that Alternative 4 Modified is the SHA's preferred alternative, with the existing bridge to remain partially or wholly intact for bicycling or fishing activities. In response to a question by Commissioner Boggs, Ms. Washington advised that Alternative 4 Modified would cost approximately \$400 million, with displacement and right-of-way (ROW) acquisition accounting for one half of that cost. In response to a question by Commissioner Busick, Mr. Holcum advised that only the planning phase of the project has received funding approval at this time and actual bridge construction was likely 10 years out. Commissioner Church stated that the cost to fully replace the bridge would increase substantially by the time the SHA is prepared to move forward with bridge construction. He stated that currently three properties are for sale in the project area, but those same properties would likely be built upon by the time the SHA begins ROW acquisition, thereby displacing a huge number of people and businesses. Ms. Washington stated that property preservation could begin immediately upon approval of the selected alternative. Commissioner Gulyas stated that such a bridge would devastate downtown Ocean City and questioned why in a time of unprecedented financial crisis the SHA would propose the most expensive alternative available. In response to comments by Commissioner Gulyas, Ms. Washington stated that the SHA will work with developers and the town to minimize impacts to the downtown. She stated that after several public hearings, SHA is prepared to take Alternative 4 Modified to MDT to begin pursuing ROW acquisition. In response to a question by Commissioner Shockley, Mr. Holcum stated that rehabilitating the existing bridge would not extend its expected life beyond 25 years, and the SHA would get more bang for its buck by proceeding with Alternative 4 Modified. In response to a question by Commissioner Church, Ms. Washington stated that the SHA has not considered building a parallel bridge at Rt. 90, rather the study addressed only the need to repair or replace the existing U.S. Rt. 50 bridge to maintain two continued access points into the town. Commissioner Church stated that, like Commissioner Gulyas, he was surprised that the SHA would recommend the most expensive and most controversial alternative when other less costly alternatives are available.

Commissioner Gulyas recognized Hale Harrison of the Harrison Group in Ocean City. Mr. Harrison stated that SHA knew that the majority of business owners strongly oppose Alternative 4 Modified and for that reason had failed to inform the public of its plans to present the Ocean City Mayor and Council with the SHA's proposed alternative to replace the bridge. He further stated that other less intrusive methods exist to move traffic into Ocean City. He took issue with the SHA's claim that the existing bridge could not be rehabilitated, noting that such upgrades had substantially increased bridge life in other areas of the country. He concluded that the State does not have the money to build a \$400 million bridge, which 10 years from now will likely cost \$800 million. He requested that at a minimum, the SHA hold a hearing on the matter and invite the general public and the boating community to attend to express their opinions.

Area contractor Phillip Insley concurred with Mr. Harrison's comments, noting that a recent editorial in the Daily Times captured this situation with the headline, "Need for progress has trumped common sense." He stated that the bizarre conglomeration of off ramps proposed in Alternative 4 Modified would displace 25 residents and interrupt the entire downtown. Commissioner Gulyas concurred, noting that she too lives downtown and this proposal would be devastating. She requested SHA to forget about Alternative 4 Modified and just, "fix the damn bridge." Following much discussion and upon a motion by Commissioner Church, the

Commissioners unanimously declined to endorse any of the proposed alternatives and asked the SHA to instead conduct a public hearing at which all concerned citizens and the boating community would be invited to express their opinions.

The Commissioners met with attorney Mark Cropper to discuss a request to realign Phase II of the U.S. Rt. 50 Service Road from MD Rt. 589 west to Seahawk Road, south of U.S. Rt. 50. County staff previously met with members of Daft McCune Walker, Inc. (DMW), The Traffic Group and attorneys Hugh Cropper and Mark Cropper, who along with DMW represent multiple property owners along Phase II of the Service Road, to discuss the possible realignment of the service road as proposed by these property owners and members of the development community. Following that meeting, staff advised the Commissioners that the property owners claim that the service road as presently proposed could have adverse impacts on plans to develop several commercial properties in the area. At that time, the Commissioners agreed to postpone further work on the project and granted developers until March 17 to present them with their redesign plans, subject to their willingness to pay all costs for redesign and subject to a plan approval by all property owners, including the Board of Education (BOE), and provided that the new design would not create any new traffic signals on US Rt. 50.

Mr. Cropper, representing a majority of property owners on the south side of U.S. Rt. 50, including the Fisher farm, CAMBR Corp., Ocean City Worship Center, Jefonico, Ed Horner, Jack Harrison, and the Harley Davidson Shop, provided a brief history and proposed realignment of the U.S. Rt. 50 Service Road. He stated that the principal development plan centered on the understanding that property owners would build or pay the County for the cost of building the road at the time each property is developed. He stated that it should be obvious to all concerned that if the landowners cannot develop their properties, they will not be able to fund construction of the service road. Mr. Cropper further noted that after the County held a public hearing and adopted the currently proposed service road alignment, no less than three developers tried and failed to develop commercial projects in the footprint of the Jefonico property and failed as the service road would dissect the B-2 General Business portion of the property. He also explained that the Warren property is no better, since the SHA does not want anyone to develop that property, as they may condemn it to serve as the site for a future U.S. Rt. 50 overpass. He stated that seven of the 10 properties located between Seahawk Road and Holly Grove Road would be adversely affected if the County chooses to proceed with the existing alignment. Mr. Cropper addressed environmental concerns raised by the proposed realignment. He stated that the current alignment would impact .49 acre of wetlands and .68 acre of buffer area, while the proposed realignment would have a slightly greater impact at .58 acre of wetland and 1.01 acres of buffer. He stated that the SHA has no concerns regarding these impacts or the proposed realignment. He advised that he is scheduled to meet with and address the BOE's traffic concerns, which regard to congestion to be created by the increased flow of traffic from the service road as buses arrive and depart Stephen Decatur Middle and High Schools on Seahawk Road. To address these concerns, Mr. Cropper proposed to limit the flow of traffic from the service road onto Seahawk Road. He stated that though there are details of the plan still to be ironed out, a plan that is acceptable to all the parties is within their reach.

Commissioner Gulyas stated that the Commissioners have worked to limit traffic signals on U.S. Rt. 50 and any proposed realignment should not add to that number. The proposed realignment calls for two new traffic signals on U.S. Rt. 50. In response to comments by Commissioner Gulyas, Mr. Cropper claimed that traffic simulations suggest that traffic can be

better regulated through the use of integrated signals rather than the lack thereof. In response to a question by Commissioner Gulyas, Traffic Group President Wes Guckert advised that a new four-way signal will be installed at U.S. Rt. 50 and the entrance of Walmart and Home Depot if WalMart proceeds with plans to develop a super center at its current location. He likened the use of signalized intersections to control the flow of traffic to that of a hose, noting that when there are only two entrances and exits the water backs up, but pressure is alleviated when that flow is dispersed to other locations. In response to comments by Commissioner Shockley, Mr. Cropper stated he is only asking the Commissioners to allow them to continue to develop a plan that would benefit all parties involved.

Commissioner Boggs stated that the issue of the U.S. Rt. 50 Service Road has been before the community on numerous occasions during the last seven years and questioned why developers waited until the eleventh hour to raise objections. Mr. Cropper stated that many of the property owners were unaware of the public meetings held by the Commissioners and only found out about the plans subsequent to attempting to develop their properties. He reminded the Commissioners that the County is only in the planning phase and must still conduct soil tests, and for those reasons he asked them to consider a proposed realignment. Commissioner Church concurred and stated that discussions regarding traffic signals should be discussed at the time properties are developed and not during service road discussions. In response to a question by Commissioner Gulyas, Mr. Cropper stated that the Planning Commission has not reviewed the proposed realignment. Following much discussion, Commissioner Gulyas advised that they would further consider the proposed realignment once they have had the opportunity to review and discuss any concerns from the BOE. Mr. Cropper agreed to meet with the BOE and return with their comments.

The Commissioners conducted a public hearing to receive public comment on the proposal to modify the official Atlantic Coastal Bays Critical Area Maps and the official Buffer Management Area maps to accurately reflect prior approved program changes. The specific modifications recommended seek to change the designation of properties shown on Tax Map 9 as Parcels 162, 268 and 356, on Tax Map 10 as Parcels 28, 29, 32, 48, 249 and 302, on Tax Map 16 as Parcels 36 and 81, on Tax Map 21 as Parcel 257, on Tax Map 22 as Lots 3 and 4 of Parcel 40, on Tax Map 26 as Parcels 132, 133, 134 and 383, on Tax Map 40 as part of Parcel 93, and on Tax Map 73 as Parcels 53, 123, 124 and 125 from Resource Conservation Area to Limited Development Area. Development Review and Permitting Director Ed Tudor stated that each of these properties were previously approved either as mapping mistakes, were awarded growth allocation or are categorized as "interim period" projects receiving preliminary plat approval prior to the program's effective date and recorded after its enactment.

Commissioner Gulyas opened the floor to receive public comment.

Ellie Diegelman of Ocean City stated concern that the properties categorized as mapping errors, refinements and interim projects would eventually be developed, which would be counterproductive to protecting the critical area.

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

Upon a motion by Commissioner Boggs, the Commissioners voted unanimously to adopt Resolution No. 09-4 amending certain program maps and buffer management area maps for the Atlantic Coastal Bays Critical Area as proposed.

Mr. Tudor presented each of the Commissioners with a computer disk containing the draft Zoning and Subdivision Control Article along with a summary of the major changes recommended by the Planning Commission, the draft Zoning Maps, and the previously transmitted draft Design Guidelines and Standards for Commercial Uses. He stated that preparing the draft Zoning and Subdivision Control Article has been a time consuming process, but one that was completed with only two major issues to be ironed out as follows: limiting the operation period of campgrounds, with staff opting to extend the use to 12 months and the Planning Commission favoring eight months; and the proposed location of surface mines. Mr. Tudor recommended conducting a series of informal public workshops as follows: Monday, April 20, – Thursday, April 23, from 10:00 am to 6:00 pm and Friday, April 24, from 8:00 am to 4:00 pm in Training Room A on the third floor of the Worcester County Government Center in Snow Hill; Monday, April 27, from 5:00 - 8:00 pm at the Worcester County Recreation Center in Snow Hill; and Wednesday, April 29, from 5:00 - 8:00 pm in the cafeteria at Stephen Decatur High School in Berlin. He stated that the purpose of the workshops would be to encourage area residents to review the documents and maps and ask staff questions prior to the formal public hearing on June 2, 2009. Mr. Tudor informed the Commissioners that Keota Silaphone, Planner III for Comprehensive Planning, was responsible for programming the disks containing all of the information presented, at which time Ms. Silaphone gave a brief presentation on how to access that information. Following some discussion, the Commissioners thanked Mr. Tudor, Ms. Wimbrow, Ms. Silaphone as well as staff and Planning Commission members for their diligence in working together to complete this arduous task during the past year.

The Commissioners answered questions from the press, after which they adjourned for lunch.

After lunch the Commissioners reconvened in open session, and Commissioner Gulyas announced that Commissioner Purnell would be absent for the remainder of the meeting.

Marty Pusey, Director of Prevention Services for the Health Department, met with the Commissioners in recognition of the one-year anniversary of the Prescription Drug Discount Program (PDDP) in Worcester County. Ms. Pusey outlined the program for those in attendance, stating that it is a discount card, not a prescription program, and was designed for uninsured and under-insured county residents. She advised that through a partnership with Caremark and the National Association of Counties (NACo), this simple discount card is available to all regardless of their age or income and could save residents an average of 22% off the full retail cost of prescription medication, with average savings ranging from 14% to 32%. Ms. Pusey stated that there are no costs to the County for participating in the program, everyone is eligible, and consumers always receive the lowest retail price. She stated that since the Commissioners authorized the County's participation in the PDDP in March 2008, Worcester County residents have saved \$311,214.99 on 20,319 prescriptions, an average monthly savings off prescriptions of about \$30,000. The Commissioners thanked Ms. Pusey and Health Department officials for their efforts to partner with area pharmacies and to inform the public about the PDDP.

Recycling Coordinator Ron Taylor, Recycling Foreman Denny Loony and Solid Waste Superintendent George Dix displayed for the Commissioners a banner entitled "Recycle with Worcester County Public Works Recycling Division," which will be displayed at the County's

booth during the Home and Condo Show at the Roland E. Powell Convention Center in Ocean City from March 20-22, 2009. Mr. Taylor explained that the County was invited to participate in the show and given a free booth to highlight the importance of recycling as well as the ongoing recycling program that already exists in Worcester County. He advised that those stopping by the booth would be able to view a brief PowerPoint highlighting the recycling program in Worcester County, learn quick tips on how to begin recycling and receive plenty of giveaways made from recycled products.

In response to a question by Commissioner Shockley, Mr. Taylor explained that Worcester County formerly received credit for recycling chicken waste due to the presence of the Tyson processing plant in Berlin. However, now that the plant is no longer in operation, the County has lost that credit. In response to a question by Commissioner Boggs, Mr. Dix advised that operations at the methane power plant at the County Landfill are progressing, with the second generator prepared to go online in less than 10 days.

The Commissioners met with Assistant Chief Administrative Officer Kelly Shannahan to announce the top three winners of the Suggestions for Achieving Valuable Efficiency (SAVE) Contest as recommended by the Worcester County Government Efficiency Committee. Katherine Munson of Comprehensive Planning took third place for her suggestion to purchase all office supplies in bulk rather than within individual departments. Patrick Pruitt of the Sheriff's Office took second place for his suggestion to offer buyout incentives for early retirement, and Kathy Whited of County Administration won first place for her recommendation to consolidate the use of County cell phones into one plan. Commissioner Gulyas presented the winners with American Express gift cards in the amount of \$50, \$75 and \$100, respectively and thanked each of the employees for their participation in the contest. Mr. Shannahan announced that during the coming months the Efficiency Committee would begin closely evaluating the feasibility of implementing some of the 167 employee tips to help reduce government spending. Following some discussion, the Commissioners thanked everyone who participated in the contest. Commissioner Boggs stated that she has never been more proud of County staff for working together and thinking of ways to save money.

The Commissioners met with Budget Officer Kathy Whited to review and discuss the Mosquito Control Program for FY10. Ms. Whited advised that the total working budget for Mosquito Control for Worcester County is estimated at \$519,500, which has not increased from the prior year. Following some discussion and upon a motion by Commissioner Shockley, the Commissioners unanimously approved the proposed budget, which requires County funding in the amount of \$183,340 or 35%, local community funding of \$99,380 and State funding of \$237,780.

Worcester County Recreation and Parks (WCRP) Director Sharon DeMar Reilly invited the Commissioners to join WCRP staff and the second grade class at Snow Hill Elementary School for an Arbor Day celebration on Wednesday, April 22, 2009 at 9:00 a.m., with light refreshments to be served one half hour prior to the ceremony. The Commissioners unanimously agreed to reschedule their budget work session to begin that day at 10 a.m., so they could attend the festivities.

Pursuant to the request of Ms. Reilly and upon a motion by Commissioner Boggs, the Commissioners unanimously approved the proposed fee schedule for Recreation and Parks for

FY09/10. Ms. Reilly advised that WCRP plans to provide two new programs this summer, including a full day summer camp as well as early bird drop off and sunset pick up to accommodate the needs of working parents. She further stated that the WCRP budget would be reduced from \$154,000 to \$122,000 to comply with the Commissioners directive to reduce department budgets by 5%. In response to a question by Commissioner Busick, Ms. Reilly advised that the motorcoach tour program has met with tremendous success and pays for itself at no cost to the County.

Pursuant to the request of Comprehensive Planning Director Sandy Coyman and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Gulyas to sign the Agreement of Sale for the purchase of a Rural Legacy conservation easement on the Phillips Family, LLC property, which is located in the 2<sup>nd</sup> tax district of Worcester County, Maryland and consists of 227.88 acres, more or less, on Bayside Road between Figgs Road and Stagg Road at a cost of \$1,045,000. Mr. Coyman advised that the sale price was based on three appraisals conducted in 2008 that were reviewed by the Maryland Department of General Services. He stated that there are \$780,413.63 in Rural Legacy grant funds available from the State and that the remaining \$264,586.40 plus the cost of long-term monitoring fee, survey and closing costs (estimated at \$20,000) would be derived from County matching funds, which were budgeted in past years and encumbered funds for such purchases.

Pursuant to the request of Mr. Coyman and upon a motion by Commissioner Busick, the Commissioners unanimously agreed to schedule a public hearing on April 7, 2009 to receive comments on a petition for donation of an easement to the Maryland Agricultural Land Preservation Foundation (MALPF) on a property owned by John and Irma Henshall Trust and located on Nassawango Road and shown on Worcester County Tax Map 62 as Parcel 36, and consisting of 135.13 acres. Mr. Coyman stated that the landowner has proposed to donate the easement, and if approved this would be only the second donated easement in the State and the first in Worcester County.

The Commissioners met with Mr. Coyman to review the Planning Commission's findings of consistency with the Comprehensive Development Plan for Worcester County and their favorable recommendation to amend the Comprehensive Water and Sewerage Plan to provide sanitary service to the Fort Whaley Campground located on the southeast corner of US Rt. 50 and Dale Road and identified on Tax Map 18 as Parcel 20, Lot A and to request the County Commissioners hold a public hearing and take action on this proposal. The applicant seeks to provide sanitary service by the existing septic systems, which currently serve 177 campsites and have capacity to serve 210 campsites at 150 gallons per day (gpd) per campsite with a total capacity of 31,500 gpd. Mr. Coyman noted that the applicant seeks to have the service area designated S-1, which implies sanitary sewer services either exist or would be provided within the next two years. He stated that portions of the parcel contain large forested areas and/or other wetlands, which are proposed to remain S-6 for no service at the recommendation of the Maryland Department of Planning to protect valuable habitat and wetlands. Mr. Coyman stated that the reason for the applicant's request was not to increase capacity, but rather to relocate the drainfields to an area on the property with better soils. Upon a motion by Commissioner Boggs, the Commissioners agreed to schedule a public hearing on the proposed amendment on April 21, 2009.

The Commissioners met with Development Review and Permitting (DRP) Director Ed Tudor to discuss requests for the abatement of three specific nuisance properties that DRP has been working on with little success for some time. Mr. Tudor noted that each of the three properties were investigated as a result of citizen complaints, and the appropriate notices had been sent in all cases though compliance has yet to be gained.

The nuisance condition of the first property, located at 10715 Griffin Road and shown on Worcester County Tax Map 20 as Parcel 373, Lot B, Plat Ref 196/58 is the location of uncontrolled growth of grass, weeds and other rank vegetation to a height of over one foot and the outdoor storage or accumulation of personal property occupying greater than 100 square feet of land area per parcel or lot, including various junk vehicles and vessels.

The second property, which is located at 7232 Cedartown Road and shown on Worcester County Tax Map 56 as Parcel 95, Lot 1, consists of outdoor storage or accumulation of personal property occupying greater than 100 square feet of land area per parcel or lot, including various junk vehicles and major components thereof, as well as the uncontrolled growth of grass, weeds or other rank vegetation to a height of over one foot.

The third property, located at 12107 Ocean Gateway immediately adjacent to the easternmost entrance of the Riddle Farm development on the north side of US Rt. 50 and shown on Worcester County Tax Map 26 as Parcel 38, Lot 41, Block B contains the outdoor accumulation of personal property occupying greater than 100 square feet of land area, including numerous junk vehicles and parts thereof. This particular property has been an ongoing problem for DRP for several years.

Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously declared the three properties public nuisances pursuant to Section PH 1-101 of the County code, due to the aforementioned conditions and since these conditions are prejudicial or dangerous to the health and safety of the people of the County and prejudicial to the property values in the County, and agreed to begin the abatement process.

Pursuant to the request of Enterprise Fund Controller Jennifer Savage and upon a motion by Commissioner Church, the Commissioners unanimously authorized Commission President Gulyas to sign the Promissory Note authorizing a loan in the amount of \$2,100,000 from the General Fund to the Mystic Harbour Sanitary Service Area (MHSSA) and to be repaid in full together with interest at the rate of four percent per annum on March 17, 2010 or at such time as the MHSSA secures permanent financing for its wastewater treatment plant replacement. In response to a question by the Commissioners, Ms. Savage stated she was hopeful that the County would be awarded federal stimulus funds to help cover the cost of this project. If not, the County can apply for funding from the Maryland Department of the Environment (MDE) or issue a local bond to pay for the project.

Pursuant to the recommendation of Public Works Director John Tustin and upon a motion by Commissioner Boggs, the Commissioners unanimously awarded the proposal for design of the sewer connection from the Showell Elementary School (SES) to the Ocean Pines sewer system to George, Miles and Buhr (GMB) of Salisbury at a cost of \$50,800 along with an additional cost of approximately \$2,500 for geotechnical work. In response to a question by Commissioner Boggs, Public Works Deputy Director John Ross advised that the design work could be completed in approximately 10 weeks.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Busick, the Commissioners unanimously agreed to waive the standard bid process and award concrete repair work and lining with a polyurethane/polymeric blend foam material to prevent further deterioration at a manhole immediately adjacent to Pump Station T in Ocean Pines to SpectraShield of Florence, South Carolina at a cost of \$17,171. Mr. Tustin explained that SpectraShield has a 10-year history of performance in these types of manhole repairs, and the company's repairs come with a 10-year warranty. In response to a question by Commissioner Shockley, Mr. Ross explained that the company is well respected in the industry. In response to a question by Commissioner Boggs, Mr. Tustin stated that the Hydrogen Sulfide gas from the force main responsible for causing the concrete to deteriorate was contained underground. He stated that Pump Station T will be shut down for a brief period of time while repairs are made and will not result in any disruption of service to area residents.

The Commissioners met with Mr. Tustin and County Engineer Bill Bradshaw to discuss the proposed two-phase plan for repairs to the Oscar Purnell House, former offices of the Commission on Aging in Snow Hill, as follows: Phase I being the initial stabilization plan for the building's porch; and Phase II being the architectural and engineering assessment which will assist in planning repairs. Mr. Bradshaw explained that staff has been working with Becker Morgan Group of Salisbury, Maryland and MacIntosh Engineering of Georgetown, Delaware to assess the building structure and has determined that the porch has deteriorated and must be reinforced before it is safe to begin working on the house. Mr. Tustin stated that the reinforcement work to the porch can be completed by County staff with the purchase of approximately \$1,500 in materials. In response to a question by Commissioner Gulyas, Mr. Bradshaw confirmed that staff will work closely with and take under advisement the recommendations of the Snow Hill Historic District Commission (SHHDC) to repair the house. Following some discussion and upon a motion by Commissioner Church, the Commissioners unanimously authorized staff to proceed with the stabilization work as proposed.

The Commissioners met with Mr. Tustin to review and discuss the bids received for the Circuit Courthouse window replacement project in Snow Hill. Mr. Tustin recommended awarding the low bid to Hegarty & Associates, Inc. of Prince Frederick and Berlin, Maryland at a cost of \$367,939 for the base bid Pella windows. He further stated that \$525,000 had been encumbered for FY09 Courthouse improvements, minus architectural fees of \$23,583 and less \$367,939 for the purchase of windows, leaving a balance of \$133,478 to complete the remaining repairs. In response to a question by Commissioner Cowger, Mr. Tustin stated that the bid specifications were based on Pella Windows; however, staff did allow potential bidders to submit proposals using alternate windows, and several alternates were then proposed. Commissioner Cowger stated that he understood that Pella windows had inflated its price to \$3,000 per window after being informed that the bid specifications for the project were based on Pella windows. He stated that similar Anderson windows were available for \$1,000; however, the short time frame available to potential bidders to submit bids negated their ability to develop alternate proposals. He recommended rejecting the bids and rebidding the project allowing alternate windows instead of Pella. In response to a question by Commissioner Boggs, Assistant Maintenance Supervisor Ken Whited advised that a direct supplier of Pella Windows provided the County with a cost estimate of \$1,700 per window, which may not have included the cost of installation. In response

to Mr. Whited's estimate, Commissioner Cowger advised that three separate contractors had been quoted prices of \$3,000 per window. Following some discussion and upon a motion by Commissioner Cowger, the Commissioners voted 5-1, with Commissioner Boggs voting in opposition, to reject the current bids and rebid the project.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Shockley, the Commissioners unanimously approved bid specifications for petroleum products to be provided to 10 County buildings and approximately 60 tanks for equipment and generators throughout the County for a two-year period beginning with the date of the award and ending April 30, 2011.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Shockley, the Commissioners unanimously approved bid specifications for design and permitting services for the Cedar Hall Boat Ramp relocation project using Waterway Improvement Program grant funds of up to \$62,496.

The Commissioners met with Budget Officer Kathy Whited to discuss items that should be excluded from the Maintenance of Effort (MOE) calculation used by the Board of Education (BOE) to establish the minimum funding which must be provided to the BOE in the coming fiscal year. Ms. Whited advised that based on her conversations with Diane Naparsteck, Financial Business Services Administrator with the State Department of Education Local Finance Office, Worcester County can only seek to exclude non-recurring expenses for the upcoming fiscal year. She noted that the County can apply for FY10 exclusions from the BOE appropriation provided the application is submitted by March 31, 2009. She stated that County staff would need assistance from the BOE to determine the detail of FY10 requests that can be excluded before the deadline. She further advised that technology and capital projects of \$300,000 and other portions of these budgets along with items in the operating budget should be reviewed for possible exclusions. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners voted 4-2, with Commissioners Church and Cowger voting in opposition, to authorize Ms. Whited to work with BOE staff to file MOE exclusions prior to March 31, 2009.

The Commissioners met with Ms. Whited to discuss the possible removal of \$385,000 in supplemental appropriated funds in FY08 from the BOE's MOE, since the supplemental funding was a non-recurring, one-time only expense granted on June 17, 2008 to cover over expenditures of the BOE. Ms. Whited stated that although the County did not notify the Maryland State BOE that the supplement the County provided was a one-time expense, staff feels that the Commissioners should still file the request to remove this amount from the MOE with both the State and local BOEs. In response to a question from Commissioner Shockley, Ms. Whited confirmed that the inclusion of one-time expenses and supplemental funding has over the years artificially inflated the annual MOE. Chief Administrative Officer Gerald T. Mason stated that the County has always funded more than the required MOE, so we never had a reason to question such increases until now. He stated that due to both the decline in revenues and student population, the County is forced to closely examine such expenses and to have them removed from the BOE's calculation for the MOE. Commissioner Shockley stated that he felt a little shell-shocked, since until recently he did not understand that the County must meet MOE or

receive a waiver by the State Department of Education in order for the local BOE to receive increased State funding for the year in question. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners voted 4-2, with Commissioners Church and Cowger voting in opposition, to request removal of the \$385,000 in supplemental funds granted to the BOE on June 17, 2008 from the MOE.

Mr. Mason advised the Commissioners that a decision must be made as to whether or not the County will fund the BOE's MOE level or some reduced amount as originally requested. He advised that if the County does not plan to meet MOE, they must give notice to the State BOE by March 31, 2009 to request a waiver. He stated that if the Commissioners choose to pursue the waiver, they would be required to present a great deal of data and attend a public hearing, after which the State could still choose to deny the waiver. He stated that the process is designed to be difficult. He concluded that while there would be no penalty to the County if the request is denied, any new funding from the State to the BOE would be withheld. Commissioners Gulyas and Boggs confirmed that the decision to direct the BOE to decrease its FY10 budget by 3% was unanimous. Commissioner Gulyas stated that regardless of whether the Commissioners are able to meet MOE or not, requesting the waiver now would give them more time to resolve the BOE funding issue. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners voted 4-2, with Commissioners Church and Cowger voting in opposition, to notify the State that they may not be able to fund the BOE at the MOE level for FY10. Commissioner Cowger stated that he could not support a request to waive the MOE unless they first met with the BOE in a work session to closely examine this issue. Commissioner Gulyas stated that the Commissioners would meet with the BOE in a work session on Wednesday, April 8, 2009, but must file for the waiver by April 1, 2009.

The Commissioners met with Budget Accountant Kim Johnson to review a cost analysis of House Bill 1553 - Video Lottery Operations - Horse Racing. Ms. Johnson advised that the 5.5% of revenue from slots facilities to local government as originally outlined in Senate Bill 3 was as follows: 70% for Worcester County, 10% for Berlin, and 20% for Ocean City. However, House Bill 1553, recently introduced by Delegates Norman Conway, James Mathias and Page Elmore, would change that percentage as follows: 60% for Worcester County, 20% for Ocean City, 10% for Berlin, and 10% for Ocean Pines Association. In response to a question by Commissioner Shockley, County Attorney Sonny Bloxom stated that the wording of the law regarding how local impact funds could be spent by municipal governments was very vague and should be amended for clarification purposes. He further stated that the intent of the law was to give the counties a final say in how local impact funds are expended. Ms. Johnson concurred, noting that the Local Development Council would make recommendations to the Commissioners regarding the proposed use of these funds. However, at the end of the day the Commissioners would still have the final say regarding how such funds were to be used.

Commissioner Gulyas recognized Tom Olson, General Manager of the Ocean Pines Association (OPA). Mr. Olson stated that although the OPA supported SB 3, it also is not opposed to HB 1553. In response to a question by Commissioner Gulyas, Mr. Bloxom stated that all local governments, including the County, would be required to submit plans to the Local Development Council outlining the intended use of local impact funds. Commissioner Church stated that the law does not outline the responsibilities of this council. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners voted 5-1, with

Commissioner Gulyas voting in opposition, to support HB 1553 and testify at the hearing for the bill as written provided that the County Attorney investigates and determines the need for additional language to clarify that the towns and the OPA, which will receive funds, are required to submit their individual plans for review by the Local Development Council and approval by the County Commissioners.

The Commissioners answered questions from the press, after which they adjourned to meet again on April 7, 2009.