

Minutes of the County Commissioners of Worcester County, Maryland

May 19, 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 Church, seconded by Commissioner Cowger, 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; Ed Tudor, Director of Development Review and Permitting; and Jerry Redden, Director of Economic Development. Topics discussed and actions taken included: appointing Priscilla Pennington-Zytkowicz to the Economic Development Advisory Board; discussing personnel matters related to the FY10 Operating Budget; discussing economic development matters; 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 May 5, 2009 meeting, as amended.

Pursuant to the request of Finance Officer Harold Higgins and upon a motion by Commissioner Shockley, the Commissioners unanimously approved the recommended 2009/2010 Tax Ditch Rates and Managers for all Tax Ditches in the County.

Pursuant to the recommendation of Mr. Higgins and upon a motion by Commissioner Boggs, the Commissioners unanimously authorized Commission President Gulyas and Trustee Harold L. Higgins, Finance Officer, to sign the Retiree Benefit Trust of Worcester County, Retiree Benefit Trust of the Worcester County Board of Education (BOE) and the Worcester County Master Retiree Benefit Trust Agreement to establish an Other Post Employment Benefits (OPEB) Trust for County and BOE employees, with the County Finance Director to serve as Trustee over these Retiree Benefit Trusts, which are to be in place before June 30, 2009 to

comply with the requirements of the Governmental Accounting Standards Board (GASB) Statements 43 and 45. Mr. Higgins advised that staff is in the final phases of a process that began almost three years ago when the Commissioners first reviewed the impact of OPEB on the County (to include both County and BOE employees) and took a proactive stance with regard to this liability. He stated that within the next month or so County staff will complete this process. He advised that a five-member Investment Committee consisting of the County Chief Administrative Officer, Budget Officer, Human Resources Director, an "at large" employee member appointed by the Commissioners and a member nominated and appointed by the BOE would oversee the Retiree Benefit Trusts to advise and make recommendations to the Trustee with respect to the investment of the Funds. Mr. Higgins advised that staff is working with Paul Madden of Whiteford, Taylor and Preston to draft the revised investment policy and appropriate accompanying documents for the County's OPEB Trust for the Commissioners to review at a future meeting. He advised that the County will transfer \$52 million equally between the BOE and County Trusts by mid June 2009. In response to a question by Commissioner Boggs, Mr. Higgins advised that all of the larger counties in Maryland already have OPEB Trusts in place; however, Worcester County is among the first of the smaller counties to establish the required OPEB Trusts.

Pursuant to the request of Housing Program Administrator Jo Ellen Bynum and upon a motion by Commissioner Church, the Commissioners unanimously authorized Commission President Gulyas to sign a letter requesting a waiver to the Maryland Department of Housing and Community Development's threshold requirement that 100% of Community Development Block Grant (CDBG) funds be expended by May 29, 2009 in order to be eligible to apply for additional funding during the 2010 CDBG application period. Ms. Bynum explained that currently the last four of 18 rehabilitation projects are under construction, but full expenditure of the remaining funds cannot be accomplished by the end of May.

Pursuant to the recommendation of Ms. Bynum and upon a motion by Commissioner Church, the Commissioners unanimously authorized President Gulyas to sign the Maryland CDBG Program Citizen Participation Plan, which among other things provides for and encourages citizen participation, particularly by low and moderate income persons, and ensures that citizens will be given reasonable and timely access to local meetings, information and records relating to the unit of general local government's proposed and actual use of CDBG funds.

Pursuant to the request of Comprehensive Planning Director Sandy Coyman and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized staff to pursue grant funding to develop a watershed plan for the Lower Pocomoke Watershed. Mr. Coyman advised that the Maryland Department of the Environment (MDE) had identified the Pocomoke Sound and Lower Pocomoke River on the Maryland 303(d) list of impaired waterways between 1996 and 2004 for the following reasons: fecal coliform in tidal portions of the basins and impacts to biological communities in the tidal portions of the Pocomoke Sound; and fecal coliform in tidal portions of the basin, sediment in the tidal and nontidal portions, nutrients in the basins and impacts to biological communities in the non-tidal portions of the Lower Pocomoke

River. Mr. Coyman further stated that plans are in place to address issues pertaining to the Atlantic Coastal Bays watershed, and staff would like to begin developing a plan for the Chesapeake Bay watershed, which in turn would qualify the County for Environmental Protection Agency (EPA) 319 grant funds for implementation projects.

Pursuant to the request of Mr. Coyman and upon a motion by Commissioner Boggs, the Commissioners unanimously approved the filing of a Maryland Chesapeake & Coastal Program Coastal Communities Project Proposal for funds of \$43,439.34 to develop a Geographic Information Systems (GIS) 3D planning model. Mr. Coyman stated that there is no local match requirement; however, included on the grant application would be an in-kind services match using the existing budgeted cost of the County's GIS software in the amount of \$35,000. He stated that the grant would be used to develop a visualization tool for analyzing general growth trends as well as specific development proposals.

Pursuant to the request of Comprehensive Planning Director Sandy Coyman and upon a motion by Commissioner Busick, the Commissioners unanimously authorized staff to forward a letter to the Maryland Agricultural Land Preservation Foundation (MALPF) Advisory Board that they not tap FY10 Bond Funds to augment FY09 funds, and if they do, that Worcester County's share of FY10 funds be preserved for our use next year. Mr. Coyman stated that Worcester County committed \$11,2000.00 in local funds to match \$384,730.43 in MALPF funds to be awarded for FY09 to purchase one easement. He stated that due to current economic projections, the MALPF board is considering using \$13 million in FY10 bond funds to augment FY09 funds for additional purchases of agricultural easements submitted in FY09. Furthermore, Mr. Coyman explained that there is not enough local matching funds available to support an additional easement purchase in FY09 in Worcester County.

At the request of Bishopville resident Charles McCullion and the recommendation of Mr. Coyman, the Commissioners unanimously authorized staff to apply for a Community Stewardship mini-grant from the Maryland Coastal Bays Program (MCBP) to provide rain barrels at a reduced cost to County residents for water conservation. Commissioner Busick stated that the Town of Ocean City has leveraged grant funds to purchase rain barrels at a cost of \$140 and sell them to town residents at a reduced cost of only \$30. She further stated that interested residents pay for the rain barrels in advance and pick them up once they are delivered to the town, alleviating the need for storage. Commissioner Boggs stated that the MCBP provided free rain barrels to residents last year.

In a related matter and in response to a question by Commissioner Boggs, Mr. Coyman stated that the Environmental Protection Agency (EPA) was pleased with the County's manual entitled *Rain Gardens in Maryland's Coastal Plain* and agreed to fund the publication of another 1,000 booklets.

Pursuant to the request of Emergency Services Director Teresa Owens and upon a motion by Commissioner Boggs, the Commissioners unanimously agreed to restore the original addressing "Worcester Highway" to homes on a private lane between Ferry Branch Road and Lambertson Road, which was named Ginn's Lane by the Commissioners on February 3, 2009 at

the request of area property owner Prentiss Ginn. Ms. Owens explained that Mr. Ginn had assured the County that all area property owners had been notified and concurred with his request to name the private lane. However, she later discovered that Rita Donaway, not Mr. Ginn, owns the property on both sides of the lane and was neither informed nor consented to the lane name. Ms. Owens advised that a letter of apology would be sent to Ms. Donaway with regard to this situation and a copy would also be sent to Mr. Ginn.

Pursuant to the request of Tourism Director Lisa Challenger and upon a motion by Commissioner Church, the Commissioners unanimously approved the request to schedule the 2nd Annual Harbor Day at the Docks at the West Ocean City parking lot at the harbor for this one-day event on Saturday, October 10, 2009. Ms. Challenger advised that nearly 4,000 people attended this County event in 2008.

The Commissioners met with Ed Montgomery, Chair of Worcester County's Initiative to Preserve Families Board, formerly known as the Local Management Board (LMB), and Executive Director Mike Dyer to review proposed staffing and operation changes within the LMB for FY10 and FY11. Mr. Dyer stated that current projections show a decline in funding from \$1,345,627 in FY09 to \$907,000 in FY10, with another anticipated decrease to \$785,000 in FY11. He stated that these figures include administrative budgets of \$263,111 in FY09, \$215,000 in FY10 and \$175,000 in FY11. Mr. Dyer concluded that the total cost of salaries and benefits for the LMB for FY09 is \$237,482, which will not be covered by the \$215,000 funding in FY10. Therefore, significant operating changes must be made. Mr. Dyer confirmed that funding cuts to all LMBs across the State were devastating, and even with the assistance of State Delegates Norman Conway and Jim Mathias, the Worcester County LMB was not able to minimize these cuts. Mr. Dyer informed the Commissioners that State officials will meet over the summer to consider further reductions the LMB's FY11 administrative budget. He stated that in light of current and future cuts and in response to a new opportunity, he would be leaving his current position to serve as Chief Executive Officer for the Epilepsy Association of the Eastern Shore (EAES) in Salisbury. He reviewed the recommendations of the LMB Board of Directors to address reduced funding levels as follows: develop a list of potential candidates to serve part-time as interim director of the LMB for a six-month trial period; immediately and continuously evaluate throughout FY10 the reduction or elimination of each line item on the LMB budget; identify alternatives to the current LMB office space to reduce or eliminate rental expenses; and after six months consider whether to eliminate one or more staff positions in order to hire another full-time director.

In response to a question by Commissioner Busick, Mr. Dyer advised that the State is not planning to phase out LMBs, which coordinate specialized services by the Health Department, Social Services and community services to youth and their families who are experiencing crisis. He stated that cuts to the Worcester County LMB were actually less severe than those of other LMBs across the State. In response to a question by Commissioner Shockley, Mr. Dyer advised that the Wicomico County LMB recently reduced staffing levels to account for a reduction in funding. In response to a question by Commissioner Boggs, Mr. Dyer stated that the interim director position would likely remain unfunded as it had before when it was under the direction of Robin Travers and Peter Buesgens. In response to a question by Commissioner Gulyas, Mr.

Dyer stated that the LMB brings all family services to the table when looking at the needs of children and families in crisis and expands the menu of services offered solely by other agencies. Following some discussion and upon a motion by Commissioner Shockley, the Commissioners unanimously approved the recommendations as presented.

Pursuant to the request of Health Officer Debbie Goeller and upon a motion by Commissioner Busick, the Commissioners unanimously authorized Worcester County to participate in the Maryland Department of Health and Mental Hygiene (DHMH) Office of Preparedness and Response Antiviral Purchase Partnership Program. At the recommendation of Ms. Goeller, the Commissioners had declined to participate in the program in 2008. However, they agreed to revisit the issue for the following reasons: the outbreak of a novel H1N1 virus (Swine Flu) with person to person transmission; and the effectiveness of treating this flu with Tamiflu and Relenza. Ms. Goeller stated that the Health Department is working with Emergency Services and has developed a list of essential County employees who, along with their immediate family members, would be eligible to receive vaccines for the H1N1 virus in the event that they become infected. In response to a question by Commissioner Church, Ms. Goeller stated that a secure site has been identified to store the antiviral medications.

Pursuant to the request of Ms. Goeller and upon a motion by Commissioner Boggs, the Commissioners unanimously authorized Commission President Gulyas to sign a modified FY09 Project Agreement for the Worcester County Community Traffic Safety Program administered through the Health Department to add \$15,000 in the Salaries and Benefits line item to meet current costs of \$158,900.

Pursuant to the request of Ms. Goeller and upon a motion by Commissioner Purnell, the Commissioners unanimously authorized Commission President Gulyas to sign a Memorandum of Understanding (MOU) between the Worcester County Health Department and the Worcester County Commissioners to purchase office desks, chairs and other dental office furniture and a wall of locked file cabinets using construction budgeted line item grant funds of \$19,824 for furniture as well as an additional \$30,000 in FY09 dental operations grant funds for said purpose. Ms. Goeller explained that the grant funds would be transferred to the County for purchase of this furniture once renovations are complete in FY10, but in order to protect those funds from being reallocated back to the State, the Health Department must contract with the County before the end of FY09 to purchase the dental clinic furniture.

The Commissioners met with Public Works Director John Tustin and Ms. Goeller to review bids for dental equipment and related services for the renovation planning of the existing Berlin Senior Center, which is to serve as the Worcester County Health Department Children's Dental Clinic. Upon a motion by Commissioner Purnell, the Commissioners unanimously agreed to refuse the second of two bids for the project, which was delivered prior to the bid deadline but to the wrong address. Upon a motion by Commissioner Purnell, the Commissioners unanimously awarded the contract to provide dental equipment and services for three operatories at a cost of \$163,164, with an option to purchase four operatories at a total cost of up to \$182,271. Mr. Tustin advised that upon approval by the Commissioners, the Maryland State Board of Public

Works must approve the award for this State-funded project.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Busick, the Commissioners unanimously awarded the contract for architectural design services for the renovation planning of the new Worcester County Health Department Children's Dental Clinic, to Becker Morgan of Salisbury, Maryland at a cost of \$28,500. Mr. Tustin stated that the Maryland State Board of Public Works must also approve the bid award for this State-funded project.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Busick, the Commissioners unanimously approved bid specifications for the replacement of roofs at the Public Landing Marina Pavilions. Mr. Tustin noted that Waterway Improvement Grant funds of \$68,079.47 will be used for new replacement roofs, security lights and placement of ladders and cleats for the boating public's safety.

The Commissioners met in legislative session.

The Commissioners met with Fire Marshal Jeff McMahon to review draft legislation and an accompanying resolution that was prepared by staff to establish categories of infractions for Fire Prevention Code violations. Mr. McMahon explained that the proposed amendment to the Code of Public Local Laws of Worcester County, Maryland creates three types of civil infractions based upon the severity of the fire code violation. He explained that the new draft resolution determines the types of violations and fines for each of these categories. He stated that the draft legislation is largely a housekeeping measure. In response to a question by Commissioner Shockley, Mr. McMahon advised that unless a burn ban is in effect or the County is experiencing high winds, the burning of leaves is allowed and does not require a permit. In response to a question by Commissioner Church, County Attorney Sonny Bloxom advised that fines are not revenue raising measures, but rather to deter violations. Following some discussion, Commissioners Boggs, Busick, Church, Cowger, Gulyas and Purnell introduced the aforementioned proposed bill as Bill 09-2 (Public Safety - Fire Prevention Code Violation Types). The Commissioners unanimously agreed to hold the public hearing on the proposed bill during their legislative session on June 16, 2009

The Commissioners met with Mr. McMahon to review draft legislation that was prepared by staff to address the increasing number of false/nuisance alarms to which the County's public safety agencies must respond. Mr. McMahon stated that the types of nuisance alarms would include false fire and medical alarms. Commissioner Cowger stated that it is not uncommon for these types of alarms to tie up nearly 100 emergency personnel and resources that would be needed if an actual event occurred concurrently. Commissioner Boggs stated that the Fire Marshal should encourage repair rather than discontinuance of alarm systems to avoid liability. Following some discussion, Commissioners Boggs, Busick, Church, Cowger, Gulyas, Purnell and Shockley introduced the aforementioned proposed bill as Bill 09-3 (Public Safety - Nuisance Alarms). The Commissioners unanimously agreed to hold the public hearing on the bill during their legislative session on June 16, 2009.

The Commissioners met with Mr. McMahon to review draft legislation that was prepared by staff to officially establish the Special Hazards Response Team (SHRT) as a legitimate County function/organization and to establish a mechanism for recovering expenses during the mitigation, containment and cleanup of hazardous substance incidents. Following some discussion, Commissioners Boggs, Busick, Church, Cowger, Gulyas, Purnell and Shockley introduced the aforementioned proposed bill as Bill 09-4 (Public Safety - Special Hazards Response Team). The Commissioners unanimously agreed to hold the public hearing on the bill during their legislative session on June 16, 2009.

Commissioner Gulyas closed the legislative session.

Pursuant to the request of Mr. McMahon and upon a motion by Commissioner Busick, the Commissioners conceptually agreed to adopt a resolution amending fees for the Fire Marshal Plan Review and Inspection Services. Mr. McMahon advised that the current fee rates have not increased; however, the Resolution includes the addition of a Technical Review Committee (TRC) Fees, 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 with Edward A. Tudor, Director of Development Review & Permitting (DRP), to discuss a request from Patricia Grey on May 4, 2009 for an extension of time to comply with the terms of Nuisance Abatement Order No. 09-3, which pertains to her property located at 7232 Cedartown Road and shown on Worcester County Tax Map 56 as Parcel 95, Lot 1 and 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. Mr. Tudor stated that the original nuisance abatement order gave the Greys until March 31, 2009 to request a hearing on the matter or to be abated by May 4, 2009. He stated that since that time minimal clean-up has been accomplished on the subject property and is far from being in compliance. Following some discussion and upon a motion by Commissioner Church, the Commissioners directed staff to take immediate action to abate the nuisance condition.

The Commissioners met with Mr. Tudor to review a report regarding the number of permits issued by DRP for the six-month period from November 5, 2008 to May 5, 2009. Mr. Tudor stated that contrary to erroneous information alleged at the public hearing on the FY09/10 Operating Budget on May 5, 2009, DRP has approved 416 or 87.4% of the 476 permit applications received in that time, with an average turnaround time for permit processing of 16.4 calendar days and with a median of 14 days. Mr. Tudor stated that given the time required to secure the various signatures required by law on each permit and considering time for required corrections by the applicant in order to comply with local, State and federal laws, a two-week turnaround on approvals is quite respectable. In response to a question by Commissioner

Shockley, Mr. Tudor agreed to look into the number of permits issued for chicken houses in Worcester County during the past year. Following the report, the Commissioners thanked Mr. Tudor for meeting with them.

The Commissioners met with Chief Administrative Officer Gerald T. Mason and Budget Officer Kathy Whited to review a report entitled *Worcester County FY09 Budget to Actual with Prior Year Comparative Data for Ten Months Ending April 30, 2009* and a revised comparison report dated May 18, 2009. Ms. Whited advised that actual versus budgeted FY09 revenues reflect a variance of 89.23%, while actual versus budgeted expenditures reflect a variance of 74.4%. In response to a question by Commissioner Cowger, Mr. Tustin advised that Highway User Revenues are down by about \$900,000 this year and will be down by about \$4 million in FY09/10. In response to a question by Commissioner Cowger, Ms. Whited stated that no surplus funds will be available in FY09 to help cover FY10 revenue shortfalls. Mr. Mason stated that at this point the County is striving to finish FY09 with balanced revenues and expenditures. Following some discussion, the Commissioners thanked Ms. Whited for her report.

The Commissioners met with Ms. Whited to review a breakdown of the federal stimulus funds of \$10.2 million for projects in and around Worcester County as follows: Education - \$698,904 for Title I and \$796,935 for Special Education-Individuals with Disabilities Education Act (IDEA); \$1.3 million for Teacher Equity-Enhanced Teacher Retirement; \$414,934 for Other Education Aid; Maryland Department of the Environment (MDE) - \$500,000 for Pocomoke City Enhanced Nutrient Removal; State Highway Administration - \$2,300,000 for resurfacing State roads in the County, and \$1,300,000 for Safety-guardrail installation projects for US Routes 13, 50 and 113, and \$1,106,000 for Shore Transit for bus replacements and support vehicle purchases, and \$325,349 to Shore Transit for facility and equipment upgrades; Investment in Housing - \$169,964 for Community Service Block Grant and \$590,119 for Shore Up Weatherization; Investing in Public Safety-Edward Byrne Memorial Justice Assistance Grants of \$97,338 to Ocean City, \$41,716 to Worcester County, and \$10,797 to Pocomoke City; Investing in Energy - \$147,300 in funds not yet allocated; and Investing in Workforce - \$143,864 for Dislocated workers, \$239,431 for Youth, and \$96,411 for Adults. Ms. Whited explained that in actuality, the County is not receiving these funds, rather the State has allocated and will spend these funds on various projects in the County. Mr. Tustin advised that as it now stands another \$1.3 million in federal stimulus funds may be allocated directly to the County for the repair of area roads. He advised that he should have more information for the Commissioners on this matter when they meet on June 2, 2009. The Commissioners noted that SHA has allocated a portion of the funding set aside for road resurfacing for US Rt. 50 in the Berlin area. Commissioner Boggs stated that Worcester County was shortchanged and did not receive funding for any of the shovel-ready projects for which federal stimulus funds were requested, and what we did get, we had no say over.

The Commissioners met with Human Resources Director George Bradley to consider offering an early retirement incentive to full-time County employees who are age 62 or older and are vested in the Maryland State Retirement Plan, with the exception of those in the Law Enforcement Officers Pension System (LEOPS) and the Correctional Officers Retirement

System (CORS) plans who already have an enhanced retirement package. Mr. Bradley advised that with the Commissioners working to reduce expenditures, such an incentive may help to reduce staffing in several departments. He recommended offering 33% of an eligible employee's annual salary in a lump sum payout for retiring on or before July 1, 2009. He stated that the total annual salary and potential bonus payout is as follows: \$1,184,000 for non-enterprise departments, with a potential bonus payout of up to \$394,385; \$385,237 for Solid Waste, with a potential bonus payout of up to \$128,412; and \$200,507 for Water and Wastewater, with a potential bonus payout of \$66,836. Mr. Bradley concluded that based on an informal survey it appears that only a small portion of those eligible to retire would accept the proposed early retirement incentive, with an actual bonus payout of about \$150,000 for non-enterprise employees, \$75,000 for Solid Waste employees, and \$65,000 for Water and Wastewater employees. Commissioner Cowger stated that the Commissioners must take action to reduce the size of County government, and this was a first step in the right direction. He further suggested that the Commissioners direct Mr. Mason to propose a plan for reorganizing and down-sizing County Government in case the early retirement incentive does not generate enough savings. Mr. Mason agreed to present a proposal for reorganizing and downsizing County Government at their upcoming budget work session. In response to a question by Commissioner Busick, Mr. Bradley stated that it was likely that only nine of approximately 15 eligible employees within Solid Waste and Water and Wastewater would accept the early retirement incentive, since many of them cannot afford to retire and others work simply because they love to do so. Following some discussion and upon a motion by Commissioner Shockley, the Commissioners unanimously approved the early retirement incentive program as presented.

The Commissioners answered questions from the press, after which they adjourned to meet again on June 2, 2009.