

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

July 7, 2009

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

Following a motion by Commissioner Shockley, seconded by Commissioner Church, with Commissioner Cowger absent, the Commissioners unanimously voted to meet in closed session at 9:00 a.m. in the Commissioners' Conference Room to discuss legal and personnel matters permitted under the provisions of Section 10-508(a)(1), (7) and (8) of the State Government Article of the Annotated Code of Maryland and to perform executive actions. Also present at the closed session were Gerald T. Mason, Chief Administrative Officer; Kelly Shannahan, Assistant Chief Administrative Officer; Sonny Bloxom, County Attorney; Kim Moses, Public Information Officer; George Bradley, Human Resources Director; Ed Tudor, Development Review and Permitting Director; John Tustin, Public Works Director; and John Ross, Public Works Deputy Director. Topics discussed and actions taken included: hiring Tammy Simpson, Deborah Taylor and Leah Ruby as Communication Clerk Trainees within Emergency Services; authorizing the recruitment of transfers to fill vacancies for two Plant Operators in the Water and Wastewater Division, one Office Assistant in the Roads Division and one Office Assistant in the Fleet Management Division of Public Works; appointing Charles Walsek to the Shoreline Commission and Nancy Howard to the Social Services Board; reviewing potential and pending litigation; receiving legal advice from counsel; and performing executive actions.

Commissioner Cowger was absent from the meeting.

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 June 16, 2009 meeting, as amended.

The Commissioners presented retirement commendations to the following individuals who accepted the Commissioners offer of a retirement incentive: Eric Rauch, Jack Gray, Carl "Lynden" Rew, Pat Taylor, Alexander "Mickie" Waters, Elisabeth Brown and Mary Novak. Human Resources Director George Bradley advised that of the 38 employees who qualified for the incentive, 12 individuals accepted the offer. Those who could not be present during the

commendation ceremony were Margaret Tindley, Preston Cottman, Margaret Cylc, Neil Kenlon and John Novak.

Pursuant to the request of Board of Education (BOE) Chief Financial Officer Vincent E. Tolbert and upon a motion by Commissioner Church, the Commissioners unanimously approved the County Appropriation Transmittal Schedule for Fiscal Year 2010 for the BOE totaling \$71,954,064.

Pursuant to the request of Budget Officer Kathy Whited and Mike Pennington, Executive Director of the Tri-County Council (TCC) for the Lower Eastern Shore, and upon a motion by Commissioner Church, the Commissioners unanimously authorized Commission President Gulyas to sign the annual lease agreement to rent office space located at 100 Pearl Street, Suite A in Snow Hill to the TCC from July 1, 2009 to June 30, 2010 at a cost of \$5,000 per year.

Pursuant to the request of Local Management Board (LCM) Chair Ed Montgomery and Diakonia Executive Director Claudia Nagle and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Gulyas to sign a Certification of Local Government Support for the Worcester County Homelessness Prevention and Rapid Re-Housing Program (HPRP) grant proposal to the Maryland Department of Housing and Community Development (DHCD) requesting \$283,050 in total funds. Ms. Nagel advised that HPRP grant funds are available as part of the federal stimulus package and can be used to provide clients with financial assistance, housing relocation and stabilization services along with data collection and evaluation, and program administration. Commissioner Shockley noted that from the application Worcester County has the highest rate of unemployment in the State. In response to a question by Commissioner Shockley, Ms. Nagel stated that statistics on the economy and homelessness in Worcester County were compiled in April 2009. Tom Wilson, a volunteer at Diakonia, advised that a large percentage of jobs in Worcester County are in the hospitality industry and are marked by low wages, while jobs in neighboring Somerset County are fewer but pay higher wages.

Pursuant to the request of Ms. Nagel and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Gulyas to sign the Emergency Shelter Grant Program (ESGP) application with DHCD to provide funding in the amount of \$30,000 for FY10 to help support emergency shelter programs at Diakonia. Ms. Nagle thanked the Commissioners for the approval of local funding in the County budget, which adds significant point value to their ESG P application.

Pursuant to the request of Samaritan Ministries Executive Director Shelly Daniels and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Gulyas to sign the Emergency Shelter Grant Program (ESGP) application with DHCD to provide funding in the amount of \$25,000 for FY10, to help fund operations at the Samaritan Shelter. Likewise, Ms. Daniels thanked the Commissioners for the approval of local funding in the County budget, which adds significant point value to their ESGP application.

Pursuant to the written request of Deputy State's Attorney Michael W. Farlow and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Gulyas to sign the Governor's Office of Crime Control and Prevention (GOCCP) Grant Application Form for second-year funding in the amount of \$45,000 to be used to continue to fund a part-time Crime Analyst position and for equipment to track crime trends and help various police agencies and the State's Attorney's Office develop strategies to help prevent future crimes from occurring in Worcester County. In response to a question by Commissioner Boggs, Crime Analyst Will Sargent stated that the grant has been used to help identify a traveling criminal group from Delaware whose activities spread into Somerset, Wicomico and Worcester Counties and Virginia. He advised that once hot spots were identified, police organizations were able to share their resources to end criminal activities, including drug trafficking. In response to a question by Commissioner Gulyas, Mr. Sargent stated that this is a three-year grant.

The Commissioners held a public hearing to consider a proposed amendment to the Worcester County Comprehensive Water and Sewerage Plan filed by the Worcester County Commissioners to reflect the replacement and expansion of the Mystic Harbour Wastewater Treatment Plant (WWTP). The amendment application was initially submitted by the Commissioners in 2008 and approved as Resolution 08-23. However, the amendment was disapproved by the Maryland Department of the Environment (MDE) due to concerns from MDE and the Maryland Department of Planning (MDP) about system operation and consistency with the new Comprehensive Plan. Comprehensive Planning Manager Sandy Coyman reviewed the revised amendment, which changes the water and sewerage plan designations for portions of the service area to make them consistent with the new Comprehensive Plan, and these changes are reflected on the revised service area map. Mr. Coyman explained that the MHWWTTP proposal provides for a new plant to be constructed on the current site, which is located east of Stephen Decatur Highway about 280 feet south of its intersection with Sunset Avenue and identified on Worcester County Tax Map 27 as Parcel 629. The new MHWWTTP will treat to enhanced nutrient removal (ENR) standards and have a capacity of 450,000 gallons per day (gpd), increasing the existing capacity by 200,000 gpd and serving an additional 666 equivalent dwelling units (EDUs) at a rate of 300 gpd/EDU with the initial 250,000 gpd to serve the existing 1,000 EDUs at a rate of 250 gpd/EDU as originally approved. The additional EDUs would serve customers in Mystic Harbour as well as the West Ocean City sewer planning areas and the West Ocean City Priority Funding Area, all of which are generally located east of Herring Creek, west of the Town of Ocean City, south of Isle of Wight Bay and north of Maryland Route 376 (Assateague Road). The additional EDUs will be used to provide service to infill lots within the existing Mystic Harbour and West Ocean City Sanitary Service Areas and may be used to bring the Ocean City Airport, Eagle's Landing Golf Course and the Worcester County Humane Society online. Mr. Coyman advised that the new MHWWTTP would use biological treatment followed by membrane filtration to achieve enhanced nutrient removal. Effluent discharge will use the existing groundwater injection and land application in the future, with portions of the proposed sewer planning areas to be designated S-1, which implies that sanitary services would be provided within the next two years, while the remaining portions planned for agriculture and green infrastructure will be designated S-3, which implies that

sanitary services may be provided within 5-10 years.

In response to a question by Commissioner Shockley, Mr. Coyman stated that the revised amendment addresses concerns raised by MDE regarding the operation of the system and concerns raised by MDP regarding the consistency of the surrounding Water and Sewer Plan designations with the new Comprehensive Plan. Mr. Coyman further stated that the new MHWWTWP would provide capacity to hook up homes currently served by septic systems, thereby decreasing the amount of nitrogen entering the Atlantic Coastal Bays. He stated that the County is in the process of updating the Comprehensive Water and Sewerage Plan, and at that time staff would include recommendations for the properties that are to be reclassified at this time only to address MDE's immediate concerns. In response to a question by Commissioner Gulyas, Mr. Coyman stated that the sewer line that would be installed to extend sewer service to the Ocean City Municipal Airport, Eagles Landing Golf Course and Worcester County Humane Society would be restricted from access by properties outside of the priority funding area. In response to a question by Commissioner Boggs, Mr. Coyman advised that the Comprehensive Water and Sewerage Plan is being updated and should be ready for the Commissioners to review by the year's end. Mr. Tudor advised that, once the Water and Sewerage Plan is updated, the County should be eligible to receive more grant and loan funding.

Commissioner Gulyas opened the floor to receive public comment.

Ellie Diegelman of Ocean City expressed concern with the proposed reclassification of certain properties within the service area. In response to her concerns, Mr. Tudor advised that the temporary reclassification of certain properties was done for the purpose of meeting the requirements of MDE. However, staff would review the suitability of these classifications as part of the comprehensively revised Water and Sewer Plan.

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

Upon a motion by Commissioner Church, the Commissioners unanimously adopted Resolution No. 09-16 amending the Comprehensive Water and Sewerage Plan for Worcester County to reflect the replacement and expansion of the MHWWTWP.

Trish Kicklighter, the new Superintendent of Assateague Island National Seashore (AINS), introduced herself to the Commissioners and presented a PowerPoint presentation outlining happenings at AINS, which include the recent birth of 4 new foals and 60 piping plover chicks; new beach store being operated by AINS friends group, with 100% of the proceeds benefitting the park; special Fee Free Weekends at the park; a documentary by Ken Burns entitled The National Parks - America's Best Idea, which will premier on the Public Broadcasting Service (PBS) on September 27, 2009; ground recently broken on the new Visitors Center, which is scheduled to open Memorial Day 2010; and developing both a new Transportation Plan and General Management Plan for AINS. In response to a question by Commissioner Boggs, Ms. Kicklighter stated that the Transportation Plan will address the need for offsite parking and possible shuttle service to AINS. She also noted that a public comment period is open for the public to weigh in on the management of AINS over the next 15 years. Commissioner Boggs suggested that future shuttle service could be provided via the West Ocean City Park and Ride, which was developed for just such purposes. Ms. Kicklighter agreed and concluded that she would like to brief the Commissioners on changes at AINS on a semi-annual basis. Following some discussion, Commissioner Gulyas thanked Ms. Kicklighter for the

presentation and welcomed her to Worcester County.

Pursuant to the request of Economic Development Director Jerry Redden and upon a motion by Commissioner Boggs, the Commissioners unanimously authorized Commission President Gulyas to sign a Loan Agreement between BelArt Products, Inc. (Borrower) and County Commissioners of Worcester County, Maryland (Lender) in the amount of \$25,000. The plant in Pocomoke City currently employs at least 70 permanent, full-time employees and plans to use funding of approximately \$500,000 from the Maryland Department of Business and Economic Development (DBED) and the County match of \$25,000 to renovate and expand its existing facilities to generate an additional 25 manufacturing jobs. Mr. Redden advised that County matching funds must be repaid only if the Borrower fails to provide the additional jobs as outlined in the agreement. Funds from a PEPCO settlement, specifically for such projects, were used to cover the required match.

Pursuant to the request of Warden Ira F. Shockley and upon a motion by Commissioner Boggs, the Commissioners unanimously agreed to waive the standard bid process and authorized the purchase of a Hobart dishwasher from Factory Direct of Richmond, Virginia at a cost of \$23,300. Warden Shockley advised that the current dishwasher is 28 years old, no longer operating as it should and is beyond repair. In response to a question by Commissioner Boggs, County Engineer Bill Bradshaw advised that funding for the replacement would come from the contingency fund for the Jail renovation and addition project.

Pursuant to the request of Finance Officer Harold Higgins and upon a motion by Commissioner Purnell, the Commissioners unanimously agreed to encumber funds of \$225,000 in the FY09 budget set aside for upgrading and replacing various backbone switches and routers within the Worcester County Government Center's Information Technology (IT) infrastructure. Upon a motion by Commissioner Purnell, the Commissioners further approved the purchase of backbone switches from Digital Intelligence Systems Corporation (DISYS) of Chantilly, Virginia under the State of Maryland computer hardware pricing contract at a cost of \$221,992.05 for this purpose.

Mr. Higgins informed the Commissioners that cash projections for July 2009 indicate that expenditures may exceed current cash levels for the General Fund, a situation that has not occurred in some time. He therefore requested authorization to borrow cash from the Reserve Fund to cover this temporary cash flow shortage. He stated that current General Fund cash and short term investments total approximately \$10 million, while July 2009 expenditures are estimated at \$14.5 million. He advised that tax collection timing for July is not clear, and receipts may be somewhat delayed this year compared to past years. Following some discussion and upon a motion by Commissioner Purnell, the Commissioners unanimously approved the request to borrow funds from the Reserve Fund to cover cash flow shortages for July 2009.

In a related matter, Mr. Higgins advised the Commissioners that many area residents have called the Treasurer's Office to question why their tax bills increased when their property assessments had decreased. He explained that these residents receive the Homestead Tax Credit, which limits the increase in taxable assessments for owner-occupied dwellings to 3% over the

taxable assessment of the prior year. This credit limits resident property owners' tax bills from increasing by more than 3% per year; however, their tax bills would continue to increase annually until the rate at which they are being charged is equivalent to that for which they are being assessed. Commissioner Gulyas asked staff to address this in an issue of the Commissioners' Corner.

Mr. Higgins met with the Commissioners to discuss nuisance abatement procedures and to seek clarification with regard to the Commissioners' intent as to what constitutes actual costs when charging fees related to the abatement of nuisances. Mr. Higgins stated that in the past only direct, out-of-pocket costs have been applied to the nuisance lien, including tipping fees, cost of rental equipment, prison inmate fees and third party vendor debris removing and hauling costs. He stated that such costs did not include time or benefit allocations for employees within Development Review and Permitting, Landfill and Sheriff's Deputies. In addition, there was no fee for abatement of the uncontrolled growth of grass, weeds or other vegetation. Commissioner Gulyas stated that all costs should be captured. In response to a question by Commissioner Shockley, Mr. Higgins stated that repeat offenders do not account for many past cases; however, times are changing. In response to concerns raised by Commissioner Church, County Attorney Sonny Bloxom stated that a lien is placed on each property, and must be paid in full by either the owner or the lender before the County will release the Deed of Transfer. Mr. Higgins stated that the County has recovered most fees levied against nuisance properties; however, some properties were kept out of the tax sale pending settlement of fees due. With regard to costs, Mr. Tudor stated that he would not recommend charging for DRP staff time leading up to the nuisance declaration, but, thereafter, recoupment for staff time by DRP, Sheriff, Public Works and Treasurer's staff to abate the nuisance was appropriate. Following some discussion and upon a motion by Commissioner Church, the Commissioners unanimously directed staff to draft a resolution establishing recoupment of costs for nuisance abatements, including personnel time, for their review and approval at a future meeting.

The Commissioners met with Mr. Tudor to review the Nuisance Abatement request for the property owned by Alice Bennett, Trustee, and occupied by Ray Bennett, located at 13034 Riggin Ridge Road in West Ocean City and identified on Tax Map 22, Parcel 397, Block 8, Lot 5. Mr. Tudor stated that the County has cleaned up this particular property four times in the last six years and this will be twice within the last 90 days. He explained that despite previous efforts to clean-up this property, it again includes the accumulation of various unlicensed and inoperable motor vehicles, campers being occupied and a collection of household trash and personal property exceeding 100 square feet in area. Mr. Tudor concluded that the property is dangerous to the health and safety of the people of the County and prejudicial to property values in the County, with neighbors again complaining about the state of the property. Upon a motion by Commissioner Shockley, the Commissioners unanimously declared the property a public nuisance and ordered the abatement of such nuisance pursuant to Section PH 1-101(a)(3) and (4) of the County code.

The Commissioners met with Mr. Tudor to review the Nuisance Abatement request for the property located at 10352 Keyser Point Road in West Ocean City and identified on Tax Map

21, Parcel 8, Lot 6. Mr. Tudor stated that the County has dealt with this particular property in the past. Mr. Tudor stated that the property is owned by the late Carroll W. Ruhl and Joseph L. Ward. However, Mr. Ward's mailing address has been changed to Harrisburg, Pennsylvania, and he has not responded to DRP's letters informing him of the nuisance complaint and asking him to clean up the property. He further advised that Mr. Ruhl passed away in 2007, and his daughter, Edie Anderson of Silver Spring, Maryland, had made arrangements with a local man to bring this property into compliance. Unfortunately, this individual did not follow through on their agreement, but took only the material of value that was on the property and left the bulk of the mess on the site. Upon a motion by Commissioner Boggs, the Commissioners unanimously declared the property a public nuisance and ordered the abatement of such nuisance pursuant to Section PH 1-101(a)(3) and (4) of the County code.

Pursuant to the request of Mr. Tudor and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Gulyas to sign the State of Maryland Department of Natural Resources (DNR) Critical Area Commission for the Chesapeake and Atlantic Coastal Bays (CACB) Grant-in-Aid Program for FY10 funding of \$31,000 for the purpose of assisting DRP staff in carrying out their responsibilities under the CACB Critical Area Protection Program.

Pursuant to the request of Mr. Tudor and upon a motion by Commissioner Church, the Commissioners unanimously authorized Commission President Gulyas to sign Addendum #2 to provide a no cost extension from September 30, 2009 to November 30, 2010 to the duration of the Memorandum of Understanding between the Maryland Department of the Environment and Worcester County, Maryland for the Isle of Wight Watershed Restoration Action Strategy Enhancement FFY06 Incremental Grant.

Mr. Tudor updated the Commissioners on the recent department consolidation, advising that staff of both the former Environmental Programs and Comprehensive Planning Departments have been relocated to the office space of Development Review and Permitting (DRP) on the second floor of the Government Center. He advised that staff is still wrapping up some loose ends, such as minor Information Technology (IT) issues, telephone connections, and minor electrical installations, but overall the move has been completed successfully. He thanked Technical Services Manager Kelly Henry, who supervised the entire physical consolidation and determined the logistics needed to bring it to fruition, along with Maintenance crews and IT staff for helping to accomplish the necessary office renovations and move. He stated that all in all it was a real team effort.

Pursuant to the request of Public Works Director John Tustin and upon a motion by Commissioner Purnell, the Commissioners unanimously authorized Commission President Gulyas to sign a Memorandum of Understanding (MOU) for American Recovery and Reinvestment Act (ARRA) Local Highway Allocation between the State Highway Administration (SHA) and County Commissioners of Worcester County, Maryland, which awards Worcester County \$1,319,000 in ARRA funding for improvements to Nassawango Road, St. Luke's Road and Seahawk Road in Worcester County.

Pursuant to the request of Mr. Tustin and Human Resources Director George Bradley and upon a motion by Commissioner Boggs, the Commissioners unanimously authorized the Roads Division of Public Works to begin operating on a four-day, 10-hour per day work week, Monday through Thursday from 6:30 a.m. to 5:00 p.m., with the offices to be closed on Friday. Mr. Tustin advised that the new schedule would remain in place throughout daylight savings time, with standard hours of operation to resume on Monday, November 2, 2009.

In a related matter, Commissioner Shockley thanked Roads Division staff for their efforts in removing fallen debris following a severe storm in Pocomoke the week prior.

The Commissioners met with Mr. Tustin to discuss the status of plans for the Northern Worcester County Drop-Off Facility in Bishopville. At their May 5, 2009 meeting, the Commissioners agreed to postpone award of the project until after the FY10 Solid Waste Enterprise Fund Budget was adopted, determine items that can be performed in-house to save money, and further directed staff to ask the low bidder, A.P. Croll & Son, Inc. of Georgetown, Delaware, to hold the current bid price of \$414,850 through July until a final decision could be made on whether to move forward with the project during the upcoming fiscal year. Mr. Tustin informed the Commissioners that A.P. Croll & Son was unable to hold their previously quoted bid due to the delay in the award of the contract for this project, but would be willing to renegotiate. Mr. Tustin recommended that now that the budget has been struck and the Ocean City Solid Waste issue has been resolved, it would be more prudent to place this project on hold and instead develop the Bishopville site to serve as an unmanned Recycling Center, with the cans to be modified to provide smaller deposit ports in the hopes of alleviating some of the issues incurred in the past where homeowners' trash was deposited in lieu of recyclables. In response to a question by Commissioner Busick, Mr. Tustin stated that the containers could be in place by next week, with staff to monitor the site two to three times per week. Mr. Mason cautioned that the former unmanned recycling center at Bishopville Park had been a source of problems, which may resume at the new site. Following some discussion and upon a motion by Commissioner Busick, the Commissioners unanimously authorized staff to proceed with plans to develop an unmanned Recycling Center on this County property on Maryland Route 367 (Bishopville Road) near the intersection of MD Rt. 113.

The Commissioners met with Mr. Tustin to review a letter from Ranger James C. Barbely of the Maryland Department of Natural Resources (DNR) requesting Worcester County to provide recycling containers for DNR at Assateague Island State Park (AISP). Mr. Tustin stated that the State is unable to provide a recycling program through their current trash company, so DNR would like the County to provide containers and service them on a regular basis. In response to a question by Commissioner Boggs, Mr. Tustin stated that the County could develop a service contract between the County and AISP, and affix a reasonable charge to cover the County's cost for providing this service. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously agreed to refer this request to staff to contact AISP to advise them that if the County is to provide this service they would be required to cover the cost and thereafter to determine the actual cost of the service and to draft a service contract for the Commissioners' consideration.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Shockley, the Commissioners unanimously awarded the bid for the roof shingle replacement project at the Public Landing Marina pavilions to Shore Siding Incorporated of Berlin, Maryland at a cost of \$13,385.26.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Church, the Commissioners unanimously authorized Commission President Gulyas to sign the Application for Assistance through the United States Department of Agriculture (USDA) Rural Development Program in the amount of \$8.8 million for the Mystic Harbour Wastewater Treatment Plant replacement and expansion project. Mr. Tustin stated that this program offers loan funding at a rate of 3.5% for a period of 40 years, and depending on the impact to sewer and water rates, this program can also offer grant funding to reduce the debt retirement cost to the customers. Commissioner Church further requested that a letter be sent to Senator Barbara Mikulski requesting her support of this application and any other federal funds that may be available to support this priority project. Commissioner Church further advised that in the future all correspondence sent to the County's federal representatives should be directed to their local offices for the sake of expediency and to avoid the three to four week lag in receipt of such correspondence when sent to Washington, D.C. due to security measures.

In response to a request by Commissioner Purnell, Mr. Tustin advised that both sides of the road leading up to the transfer station in Briddletown are owned by the Town of Berlin, but that he would work with town officials to see what measures could be taken to stop individuals from dumping trash in the area.

The Commissioners answered questions from the press, after which they adjourned to meet in closed session.

Following a motion by Commissioner Purnell, seconded by Commissioner Church, with Commissioner Cowger absent, the Commissioners unanimously voted to meet in closed session at 11:59 a.m. in the Commissioners' Meeting Room to discuss legal matters permitted under the provisions of Section 10-508(a)(7) 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; Kathy Whited, Budget Officer; Harold Higgins, Finance Officer; Phil Thompson, Assistant Finance Officer; Jerry Redden, Economic Development Director; and Allan Taylor, Information Technology Manager. Topics discussed and actions taken included: consulting with counsel to obtain legal advice regarding the ongoing management of the Lower Shore Broadband Cooperative (LSBC); and performing executive actions.

After the closed session, the board adjourned to meet again on July 21, 2009.