

Minutes of the County Commissioners of Worcester County, Maryland

July 21, 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 Boggs, seconded by Commissioner Purnell, 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; John Tustin, Director of Public Works; John Ross, Deputy Director of Public Works; Ed Tudor, Director of Development Review and Permitting; Bob Mitchell, Environmental Programs Administrator; Don Hastings, Chair of the Liquor Control Board (LCB); and Brian Sturgeon, Executive Director of the LCB. Topics discussed and actions taken included: approving an exception to the hiring freeze to fill Sheriff's Deputy vacancies; hiring Ryan Walsh as a Communications Clerk Trainee for Emergency Services; 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 July 7, 2009 meeting, as amended.

The Commissioners presented a retirement commendation to Calvin Allen, who served as a Correctional Officer within the Worcester County Jail, and thanked him for his years of devoted service to the County.

Pursuant to the recommendation of Finance Officer Harold Higgins at the request of Melanie A. Pursel, Executive Director of the Ocean City Chamber of Commerce, and upon a motion by Commissioner Church, the Commissioners unanimously adopted Resolution No. 09-17, authorizing a 100% tax credit for real property owned by The Greater Ocean City, Maryland Chamber of Commerce, Inc. for the July 1, 2009 tax year.

Pursuant to the recommendation of Mr. Higgins at the request of Anthony Bowen, President of the Berlin Community Improvement Association (BCIA), and upon a motion by Commissioner Church, the Commissioners unanimously adopted Resolution No. 09-18, Authorizing a 100% Tax Credit for Real and Tangible Personal Property owned by the BCIA for such property which was exclusively for non-profit activities of BCIA for the July 1, 2009 tax year.

Pursuant to the request of Brian Garrett, Executive Director of the Delmarva Discovery Center (DDC), and upon a motion by Commissioner Boggs, the Commissioners unanimously approved the request to allow DDC to reallocate remaining FY08 County grant funds of \$54,324.96 already received by the DDC originally intended for the Capital Phase to be shifted to support and advance other initiatives and operating expenses of the DDC now that the Capital Phase is complete.

Public Works Director John Tustin updated the Commissioners on the success of the recent online sale of surplus vehicles, equipment, tools and office furniture through GovDeals. Mr. Tustin stated that 24 vehicles, 22 pieces of equipment and numerous miscellaneous items sold for \$99,666.71. He further stated that the commission to GovDeals totaled \$7,572.00, leaving the County with a net profit of \$92,094.71. He advised that in 2008 the GovDeals sale of 26 vehicles and 32 pieces of equipment and numerous miscellaneous items yielded a gross profit of \$144,720.05 minus the \$10,905.32 commission paid to GovDeals for a net profit of \$133,814.73. He concluded that the GovDeals auction continues to be a very successful and profitable endeavor, even in these times of recession, and all proceeds from the sale will go back to the County General Fund as well as \$24,394.59 to the Solid Waste Enterprise Fund and \$8,529.42 to the Water and Wastewater Enterprise Fund.

Pursuant to the recommendation of Mr. Tustin at the request of the Sheriff's Office and upon a motion by Commissioner Boggs, the Commissioners voted 5-2, with Commissioners Church and Cowger voting in opposition, to waive the standard bid process and purchase five identified 2010 Crown Victoria police vehicles from Hertrich Fleet Services of Milford, Delaware under the 2009 State contract bid price of \$22,927.00 per vehicle. Mr. Tustin stated that funds to purchase the vehicles were approved in the FY09/10 budget, and Hertrich had recently agreed to honor last year's State bid price for orders placed by July 31, 2009. Commissioner Cowger stated that the County has five car dealerships, all on the verge of going out of business, and they should have the opportunity to bid on these vehicles. He stated that local businesses, not out of state contractors, pay the local taxes that help the County operate. In response to a question by Commissioner Shockley, Mr. Tustin stated that Hertrich Ford of Pocomoke is the only car dealership in Worcester County that sells Crown Victorias. He further explained that, while the Pocomoke dealer is part of the Hertrich group, their fleet sales division is in Milford, Delaware. Commissioner Boggs stated that while she would like to support local businesses whenever possible, the first priority must be the wise use of taxpayer dollars. Commissioner Purnell concurred, but also agreed that in the future all vehicle purchases should go out to bid to provide local car dealerships with the opportunity to compete in the bid process.

The Commissioners met with Finance Officer Harold Higgins and Information Technology Manager Allan Taylor to review a proposed Termination of Management Agreement with the Lower Shore Broadband Cooperative (LSBC) as recommended by the LSBC Management Committee. Commissioner Shockley recused himself from the discussion due to a potential conflict of interest as Chair of Maryland Broadband. Mr. Higgins advised that on August 20, 2008 the County assumed management of the operations of the LSBC with the goals of restoring reliable internet service to the existing LSBC members and enabling the LSBC to reach the point of financial viability in order to prevent the insolvency and bankruptcy of the cooperative. He stated that the committee achieved the first goal, but regrettably was unable to develop a plan for the long-term financial viability of the LSBC without continued public subsidy and/or significant rate increases to the LSBC members to cover the ongoing operational and capital costs associated with continued operations. He stated that, as a result, the LSBC Management Committee recommends terminating the management agreement with LSBC effective October 4, 2009. He stated that staff would continue to provide operational support at no cost to the LSBC during this interim period, and proposed to meet with the LSBC Board to brief them on issues discovered by the management team over the past 11 months, which will enable the LSBC Board to determine the best course of action upon their resumption of operations beginning October 5, 2009. He further recommended that the LSBC Board meet with their members to determine whether to continue operations or dissolve the cooperative. Commissioner Boggs stated that it has never been the Commissioners' intention to permanently run the LSBC. She agreed that it's time for the County to step away. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously approved the Termination of Management Agreement with LSBC as recommended by staff.

Commissioner Shockley returned to the meeting.

The Commissioners met with Mr. Tustin to review a request from the Mystic Harbour Homeowners' Association to raise the posted speed limit from 20 miles per hour (mph) to 25 mph. Mr. Tustin explained that the developer established a speed limit of 20 mph on all roadways within the community, and that speed limit was not changed after ownership and responsibility for the roads was turned over to the County in the late 1980s. He stated that both the Sheriff's Office and the Maryland State Police have indicated that they cannot enforce any speed limit lower than 25 mph in accordance with State law. Following some discussion and upon a motion by Commissioner Church, the Commissioners unanimously approved the proposed speed limit increase as recommended by Mr. Tustin.

The Commissioners met with Mr. Tustin to review and discuss steps taken by Public Works staff in response to the structural engineering recommendations made by the Becker Morgan Group of Salisbury for facade repairs to the Oscar Purnell House, former offices of the Commission on Aging in Snow Hill, including the temporary support of the porch at the front of the building, and completion of an architectural evaluation to provide a basis for future repairs. Mr. Tustin stated that with the initial phase assessment and temporary shoring in place, the next step is to develop a detailed design of the repair specifications and drawings, approval from the

Town of Snow Hill's Historical Society, and to bid the needed repairs to the roofs, porches, flashing, trim, porch columns and porch foundations. Mr. Tustin stated that based on Becker Morgan's work to date, knowledge of the structure and historical significance, the Commissioners should waive the standard bid process and accept the proposal from Becker Morgan to continue the design of repairs for the Oscar M. Purnell House at an hourly not to exceed cost of \$18,000. Following some discussion and upon a motion by Commissioner Shockley, the Commissioners unanimously awarded the contract to Becker Morgan as recommended by staff.

The Commissioners met with Edward A. Tudor, Director of Development Review and Permitting, to discuss the Town of Berlin's proposed Annexation Resolution 2009-04, Berlin Properties North LLC. Mr. Tudor informed the Commissioners that by virtue of the above-referenced Annexation Resolution, the Town of Berlin is proposing to annex approximately 3.9 acres of land contiguous to and adjoining the town limits of Berlin. The property in question is shown on Worcester County Tax Map 25 as a portion of Parcel 57 and is located on the northerly side of Old Ocean City Boulevard. The property in question formerly was the operational office and cafeteria for the Tyson Food Plant, and the Town of Berlin is proposing to annex the property and place it in their B-3 zoning category. Mr. Tudor noted that Article 23A, of the Annotated Code of Maryland as amended by House Bill 1141 provides that the annexed land cannot allow uses substantially different than those in the County's zoning classification, and in the case of residential development the residential density must be consistent with that of the County. Since this property is neither currently zoned for residential purposes by the County nor proposed to be by the Town, that latter issue does not apply. However, the County Commissioners must concur with the proposed zoning district due to the difference in allowable uses. He stated that the property is shown as being within the growth area of the adopted Land Use Map as shown on the County's Comprehensive Plan. Under the County's jurisdiction the property is currently contained in the M-2 Heavy Industrial zoning category and is proposed to retain that designation in the draft zoning maps now under consideration, though the portion of Old Ocean City Road on which it is located contains a mix of industrial and commercial zoning designations both within the Town limits and the County's jurisdiction. Mr. Tudor concluded that it would be appropriate for the Commissioners to concur with the proposed zoning upon annexation by the Town of Berlin. However, he noted that the rear boundary line on the property bisects an existing building, and the building should either be demolished or placed totally within or outside of the annexation area as it does not make good sense to have the line designating the Town limit running right through the building. Furthermore, the proposed property boundaries create setback violations as proposed, which should be alleviated if possible. Following some discussion and upon a motion by Commissioner Church, the Commissioners unanimously agreed to send a letter concurring with the rezoning upon annexation and recommending the boundary line be amended as recommended by staff.

The Commissioners met with Mr. Tudor to discuss a letter from Joseph F. Tassone, Coordinator for the Agricultural Certification Program, and James A. Conrad, Executive Director of the Maryland Agricultural Land Preservation Foundation (MALPF), conditionally certifying for three additional months those counties with land preservation programs set to

expire on June 30, 2009, but which have not yet submitted their recertification applications. Mr. Tudor stated that during this grace period, jurisdictions can still continue to retain 75 percent of their locally generated Agricultural Land Transfer Tax (ALTT) instead of the 33 percent they would be allowed to retain once the program has expired. Mr. Tudor stated that both the Maryland Agricultural Land Preservation Certification Program application and the draft Priority Preservation Area Element (PPAE) to the County's Comprehensive Plan were reviewed and recommended for adoption by the Worcester County Agricultural Land Preservation Board and the Planning Commission. Mr. Tudor made two recommendations as follows: approve the Planning Commission's advertisement of the draft PPAE as an amendment to the Comprehensive Plan; and approve and submit the MALPF Certification Program application with three minor amendments that strike reference to a transfer of development rights (TDR) program from the program application. In response to a question by Commissioner Boggs, Mr. Tudor stated that it has been the stated intention of the Commissioners not to pursue a TDR program at this time, and he recommended removing references to TDRs in the application only for continuity's sake. Following some discussion and upon a motion by Commissioner Busick, the Commissioners unanimously approved the Planning Commission's advertisement of the draft PPAE as an amendment to the Comprehensive Plan and further approved the submission of the MALPF Certification Program application with the amendments recommended by staff.

Pursuant to the request of Mr. Tudor and upon a motion by Commissioner Church, the Commissioners unanimously authorized staff to submit a Proposal for FFY2010 319(h) Grant Funding under Maryland's Nonpoint Source Program in the amount of \$82,543 to be used to develop a water quality improvement plan for the Lower Pocomoke River watershed. Mr. Tudor advised that all grant funds received to date have been for projects targeted to the Atlantic Coastal Bays, and this would be the first opportunity for the County to apply for grant funds for a project involving the Chesapeake Bay watershed. He stated that the total project cost is projected at \$82,543.00, of which \$45,500 would come from federal funds, \$25,000 from the Chesapeake Bay Trust, and an in-kind match on the County's part of \$12,043 in staff time. He concluded that the project would assist in developing recommendations to meet the Total Maximum Daily Load (TMDL) standard established for the Lower Pocomoke River.

The Commissioners recessed until 11:00 a.m.

The Commissioners met with Project Manager Jamaica Kennon, Engineer John Narer and Nichol Washington of the Maryland State Department of Transportation (MDT) State Highway Administrations (SHA) and US Rt. 50 Crossing Study consultant Scott Holcum to receive feedback and solicit the Commissioners' preference of an alternative for the replacement of the U.S. Route 50 crossing into Ocean City known as the Harry W. Kelley Memorial Bridge, which is said to have a remaining life span of approximately 15-20 years at a cost of \$30 million for continued maintenance. Mr. Holcum 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 at a cost of \$30 million for continued maintenance; Alternative 2 - bridge rehabilitation, with a continued life expectancy of 25 years at a cost of \$140 million; Alternative 4 Modified - modified, fixed span bridge, with a 45' clearance, that would meet in Ocean City

between Philadelphia Avenue and Baltimore Avenue at a cost of approximately \$400 million; 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, at a cost of approximately \$335 million; and Alternative 5A - north parallel bridge span with 30' clearance as in Alternative 5, but located on the north side of the existing bridge, at a cost of approximately \$340 million. Ms. Kennon advised that Alternatives 1 and 2 are no longer viable options, as the bridge cannot be rehabilitated. In response to a question by Commissioner Shockley, Ms. Kennon confirmed that currently the SHA does not have funds to construct a new bridge, but would continue to repair and maintain it until the replacement bridge is constructed. Commissioner Boggs recalled that the SHA previously preferred Alternative 4, but noted that the disadvantages of that alternative, including the highest expense, highest number of properties impacted, reduced parking, most changes to traffic patterns, and most citizen opposition, far outweigh the advantages. In response to a question by Commissioner Boggs, Mr. Narer stated that the SHA has funding to complete the planning phase of the project, but future funds for construction would be authorized at a later date. After much discussion and upon a motion by Commissioner Church, the Commissioners unanimously endorsed Alternative 5A, as it will have the least impact on properties, especially those on the west side of the bridge under County jurisdiction. Commissioner Gulyas thanked SHA officials for meeting with them.

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, the Commissioners unanimously voted to meet in closed session at 11:20 a.m. in the Commissioners' Meeting Room to perform executive actions. Also present at the closed session were Gerald T. Mason, Chief Administrative Officer; Kelly Shannahan, Assistant Chief Administrative Officer; Sonny Bloxom, County Attorney; Kim Moses, Public Information Officer; and Jerry Redden, Director of Economic Development. The Commissioners performed executive actions.

After the closed session, Commissioner Gulyas announced the topics discussed during the closed session, after which the Commissioners adjourned to meet again on August 4, 2009.