

Minutes of the County Commissioners of Worcester County, Maryland

August 18, 2009

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

The Commissioners toured the first phase of the Pocomoke High School construction and renovation project with the Mayor and Council of Pocomoke City, Worcester County Board of Education members and staff at 9:00 a.m.

The Commissioners reviewed and approved the minutes of their August 4, 2009 meeting, as submitted. Commissioner Shockley abstained due to his absence from the prior meeting,

The Commissioners met with Housing Program Administrator Jo Ellen Bynum regarding a request by the Maryland Department of Housing and Community Development (DHCD) for Worcester County's continued participation in the "On Behalf Of" (OBO) program, which provides low interest loans primarily to first time home buyers as well as to those homebuyers who have not owned their principal residence within the last three years. Upon a motion by Commissioner Purnell, the Commissioners unanimously agreed to irrevocably transfer to the Community Development Administration for use in issuing housing bonds on behalf of Worcester County, the full \$1,559,503 in tax-exempt housing bond allocation to Worcester County as set forth in the 2009 allocation of the Maryland State Ceiling for use under the Maryland Mortgage Program.

Pursuant to the request of Ms. Bynum and upon a motion by Commissioner Purnell, the Commissioners unanimously approved bid specifications to demolish and construct a replacement home and install a well and septic system at a property in the Snow Hill area using the County's existing State Special Loans Program (SSLP) funds and Community Development Block Grant (CDBG) funds. In response to a question by Commissioner Shockley, Ms. Bynum stated that currently funds are not available to install a nutrient removal septic system. Environmental Programs Manager Bob Mitchell stated that funding for upgrades to the more costly nutrient removal systems are being limited to those residing within the Atlantic Coastal Bays Critical Area.

Pursuant to the request of George King, Agency Procurement Specialist with the Health Department, and upon a motion by Commissioner Busick, the Commissioners unanimously accepted the proposal from Second Wind, Inc. of Salisbury, Maryland as the best proposal for halfway house services beginning August 2009 for homeless addicted men who are treated by

Worcester County. This agreement was reached after the Commissioners unanimously rejected proposals submitted to them and reviewed on June 2, 2009, as the bids failed to meet all of the requirements contained in the Request for Proposals (RFP). At that time, the Commissioners authorized Health Department staff to negotiate with local halfway house vendors Second Wind, Inc. of Salisbury, Maryland, Right Turn of Maryland in Cambridge and Samaritan House Inc. of Annapolis to negotiate an acceptable contract for these services. In response to a question by Commissioner Busick, Mr. King explained that Right Turn of Maryland failed to meet the audit requirements, and Samaritan House was not acceptable due to transportation issues.

Pursuant to the request of Development Review and Permitting Director Ed Tudor and upon a motion by Commissioner Church, the Commissioners unanimously authorized Commission President Gulyas to sign a Rural Legacy Agreement of Sale between William B. Blank (Seller), and Worcester County Commissioners (Buyer), for the purchase of a Rural Legacy conservation easement on a 142.36-acre property located within the Coastal Bays Rural Legacy Area, which is more specifically identified on Worcester County Tax Map 79, Parcel 157, at an approximate cost of \$285,000.00 using State Rural Legacy Program (RLP) grant funds as well as an estimated \$20,000 in additional County match funding to cover surveying and closing costs.

Pursuant to the recommendation of Public Works Director John Tustin in response to a written request by Ocean Pines Association Water and Sewer Advisory Council Chairman Aris Spengos and upon a motion by Commissioner Busick, the Commissioners unanimously authorized staff to pursue the possibility of securing long-term financing to complete the Ocean Pines fire protection project, which includes installing fire hydrants in the Ocean Pines Service Area. A portion of the project was completed in 2003 using funds from the 2002 - 2003 Bond Issue. In his letter, Mr. Spengos advised that large areas of Ocean Pines remain without adequate fire hydrant coverage, though the residents are repaying the debt incurred to protect other areas. He noted that the current bid climate is favorable, and the work needed to finish this project could likely be completed at a reasonable cost. Mr. Tustin concurred and stated that both Taylor Bank and the Bank of Ocean City had expressed interest in funding this project. He stated that the next step would be to negotiate rates and terms with these institutions for the Commissioners' consideration at an upcoming meeting, after which a public hearing would be held to receive comments from ratepayers.

In a related matter, Mr. Tustin stated that staff may need to investigate private financing for the Mystic Harbour water tower project as well.

The Commissioners met with Mike Pennington, Executive Director of the Tri-County Council (TCC) for the Lower Eastern Shore, to discuss Ocean City's request for the possibility of Shore Transit to provide curb to curb medical transportation services in Ocean City. Mr. Pennington advised that Shore Transit uses Federal 5311 and Americans with Disabilities (ADA) funds to provide curb to curb medical transportation service within fixed service area routes, which include Berlin, Pocomoke and Snow Hill, and Statewide Special Transportation Assistance Program (SSTAP) funds for curb to curb service outside the fixed route/APA areas of service. He further noted that Ocean City also receives 5311 and ADA funding to provide this

service within the incorporated areas of the Town of Ocean City. Mr. Pennington stated that it would be inappropriate for Shore Transit to use federal and State funds allocated for its service area to provide curb to curb service in another designated area. However, he was sensitive to concerns related to dealing with the inconvenience and time involved with transporting riders from within Ocean City to areas outside of the town limits. Therefore he met with and proposed the following four options to Ocean City representatives on April 15, 2009 to provide seamless service to the town's residents: make no changes to the present operation; Shore Transit provides total round trip service to Ocean City ADA customers and Ocean City Transit, using federal 5311 and/or ADA funding, funds an appropriate portion of the ride; Ocean City Transit provides total round trip service to Ocean City ADA customers and Shore Transit funds an appropriate portion of the ride using Federal 5311 and/or ADA funding; or the ride is "Out Sourced" and each agency, using Federal 5311 and/or ADA funding, pays an appropriate portion of the ride. Mr. Pennington stated that to date he has received no response from Ocean City officials on their preferred option. In response to a question by Commissioner Gulyas, Mr. Pennington stated that between 20 and 30 people utilize this service each year. Commissioner Gulyas recommended the TCC begin transporting these individuals from their homes within Ocean City and then bill the Town of Ocean City for its share of the costs. County Attorney Sonny Bloxom stated that the town is under no obligation to repay the TCC unless both entities enter into an agreement to do so. Commissioner Church stated that the TCC has offered reasonable options to resolve this concern, but the ball is now in Ocean City's court. Following some discussion and upon a motion by Commissioner Church, the Commissioners voted 5-2, with Commissioners Gulyas and Shockley voting in opposition, to send a formal letter to the Town of Ocean City advising that the County has been fully briefed on this matter by the TCC and asking the town to respond directly to the TCC with its preferred option. The Commissioners agreed to revisit this issue at their next meeting on September 1, 2009 to determine if progress has been made toward resolving this transportation issue. Commissioners Gulyas and Shockley explained that they voted in opposition because they felt that the people depending upon this means of transportation have been put off long enough, and the TCC should step in to offer relief now.

The Commissioners met in legislative session.

The Commissioners reviewed draft legislation prepared by staff at the request of Commissioner Busick for introduction as an emergency bill to establish regulations to prohibit the possession and distribution of salvia and its related paraphernalia. Chief Administrative Officer Gerald T. Mason reviewed the proposed legislation, which was modeled after the recent Ordinance adopted by the Ocean City Mayor and Council on August 3, 2009. Commissioner Busick stated that though the State plans to once again introduce legislation to either regulate or outlaw the use of Salvia during the 2010 General Session, the Commissioners must take action to outlaw this substance now, particularly since merchants who are no longer able to sell Salvia in Ocean City are more likely to begin selling it in West Ocean City (WOC) and other areas of Worcester County.

The Commissioners received expert opinion on the matter from State's Attorney Joel Todd, Worcester County Sheriff Charles Martin and Health Officer Debbie Goeller.

Mr. Todd stated that Salvia is a dangerous and powerful hallucinogenic, as powerful as the hallucinogenic mushrooms that have been criminalized by the State. He advised, however,

that because testing procedures are not in place to detect Salvia, it would be difficult to prove that a violation has occurred. He further noted that certain types of Salvia may be commonly found in home gardens, and law enforcement is unclear on how to distinguish between the different varieties. Commissioner Busick noted that she understood that the chemical properties of salvia divinorum are different than those of its garden variety cousin. In response to a question by Commissioner Boggs, Mr. Todd stated that the County could receive some legal challenges, and in fact Ocean City Attorney Guy Ayres has already received one complaint from a merchant questioning the town's authority to outlaw a substance that the State of Maryland has not outlawed. However, Mr. Todd stated that it is his opinion that both the town and the County do have the power to enforce such bans. Commissioner Church stated that the Commissioners have an obligation to protect the citizens of Worcester County, and he is not worried about a legal challenge. He stated that, morally, banning salvia is the right thing to do. Commissioner Boggs agreed, but stated that the Commissioners must also be concerned with protecting taxpayer dollars from frivolous lawsuits. In response to a question by Commissioner Boggs, Mr. Todd stated that attempting to reduce the use of salvia by regulating it would be about as helpful as eliminating advertisements had been to reducing the use of tobacco, because it would continue to be sold and used and peoples lives damaged accordingly. Furthermore, he noted that age should not be a factor when considering whether to ban a hallucinogen, since its affects are the same on youth and adults. Commissioner Cowger stated that he was not opposed to banning the substance, but that such an action should be enforceable by police and the courts.

In response to a question by Commissioner Shockley, Sheriff Martin stated that though the County does not need people on the highways under the influence of the hallucinogenic salvia, enforcing a ban on this herb would create headaches for law enforcement officials because there is no money for training and no means of testing to determine if the more than 200 species of sage are in fact salvia divinorum. He questioned who would pay for the testing, and noted that if the bill is passed as it is written area residents could be arrested simply for growing its cousin, scarlet sage, in their yards. Commissioner Church stated that Ocean City and the 10 states that have banned the sale of salvia have likely already addressed the same concerns; therefore, the County could follow their lead. Mr. Todd stated that the draft legislation should specify an intent to use the substance to eliminate the possibility of those growing the garden variety from being prosecuted.

In response to a question by Commissioner Boggs, Health Officer Debbie Goeller stated that there is no evidence that salvia is a gateway drug, and there has been no report of accidents, illness or injury related to the use of salvia to date. However, nine of 125 youth in the shelter unit for using other substances have reported using salvia in the past. She cautioned, however, that the scientific and medical community believe this drug may be used to develop legitimate medications and should not be banned for such purposes. Following much discussion, Commissioners Boggs, Busick, Church, Cowger, Gulyas, Purnell and Shockley introduced the aforementioned proposed bill as Emergency Bill 09-5 (Criminal Law - Salvia). The Commissioners unanimously agreed to hold the public hearing on the proposed bill during a special legislative session on September 1, 2009.

Commissioner Gulyas closed the legislative session.

The Commissioners answered questions from the press, after which they adjourned to

meet in closed session.

Following a motion by Commissioner Church, seconded by Commissioner Purnell, the Commissioners unanimously voted to meet in closed session at 11:40 a.m. in the Commissioners' Meeting Room to discuss legal and personnel matters permitted under the provisions of Section 10-508(a)(1), (7) and (8) of the State Government Article of the Annotated Code of Maryland and to perform executive actions. Also present at the closed session were Gerald T. Mason, Chief Administrative Officer; Kelly Shannahan, Assistant Chief Administrative Officer; Sonny Bloxom, County Attorney; Kim Moses, Public Information Officer; George Bradley, Director of Human Resources; Jerry Redden, Director of Economic Development; and John Tustin, Director of Public Works. Topics discussed and actions taken included: rehiring Theresa Carpenter as an Office Assistant III within the Fleet Maintenance Division and transferring Lisa Lawrence to Office Assistant III within the Roads Division of Public Works from Development Review and Permitting; nominating Larry R. Fry, Deborah Stanley-Maphis and Thomas Gulyas for the Governor's consideration in filling an upcoming vacancy on the Property Tax Assessment Appeal Board; appointing Diana Purnell to the Ethics Board; reviewing potential and pending litigation; receiving legal advice from counsel; and performing executive actions.

After the closed session, Commissioner Gulyas announced the topics discussed during the closed session, after which the board adjourned to meet again on September 1, 2009.