

Minutes of the County Commissioners of Worcester County, Maryland

September 15, 2009

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

Following a motion by Commissioner Purnell, seconded by Commissioner Boggs, the Commissioners unanimously voted to meet in closed session at 9:00 a.m. in the Commissioners' Conference Room to discuss legal and personnel matters permitted under the provisions of Section 10-508(a)(1), (7) and (8) of the State Government Article of the Annotated Code of Maryland and to perform administrative functions. 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; Harold Higgins, Finance Officer; John Tustin, Director of Public Works; and Ed Tudor, Director of Development Review and Permitting. Topics discussed and actions taken included: discussing the hiring of a Risk Manager for Human Resources; discussing a pending employee disciplinary action; reappointing Ted Doukas and Donna Weaver to the Lower Shore Workforce Investment Board; discussing legal matters regarding the potential provision of public sewer service to Pines Plaza Shopping Center; reviewing potential and pending litigation; receiving legal advice from counsel; and performing administrative functions.

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 September 1, 2009 meeting, as presented.

Pursuant to the request of Housing Program Administrator Jo Ellen Bynum and upon a motion by Commissioner Boggs, the Commissioners unanimously approved bid specifications for the general rehabilitation of a single family home located in the Snow Hill area, using State Special Loans Program (SSLP) funds and Community Development Block Grant (CDBG) funds.

Pursuant to the request of Emergency Services Director Teresa Owens and upon a motion by Commissioner Boggs, the Commissioners unanimously agreed to waive the standard bid process and authorized Commission President Gulyas to sign a contract between Worcester County (Buyer) and Harris Corporation (Seller, formerly M/A-COM) of Wilmington, Delaware

for the purchase, engineering and installation of radio communications equipment at a cost of \$1,900,000 to improve the Maryland Eastern Shore Interoperability Network (MESIN). Ms. Owens explained that the County had been awarded Maryland Emergency Management Agency (MEMA) grant funds of \$2,000,000 for this County-led project to improve emergency communication on the Eastern Shore. Commissioner Boggs noted that Worcester County is one of only a handful of counties throughout the United States that had been chosen to develop an interoperability network to open lines of communication between emergency workers from diverse areas and thanked Ms. Owens for coordinating this effort.

Pursuant to the request of Economic Development Director Jerry Redden and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized staff to apply for a Transportation Investment Generating Economic Recovery (TIGER) Grant of \$12,430,413 to rehabilitate the Maryland & Delaware (MDDE) Railroad's Snow Hill freight line, which runs for 27 miles between Frankford, Delaware and Snow Hill, Maryland. Mr. Redden explained that the track is to be rehabilitated and upgraded from a Class I track, with a maximum operating speed of 10 miles per hour (mph) with cars limited to carrying 263,500 pounds (lbs) per car, to a Class II track, with a maximum operating speed of 25 mph and with cars able to carry up to 286,000 lbs per car. Mr. Redden stated that Tyson Foods in Snow Hill, the primary shipper on the Snow Hill line, loses 23,000 pounds per car, per delivery when transporting corn, soy meal and grain to the Eastern Shore, while most competitors in other areas have already converted railways to Class II tracks. He stated that this puts an unfair burden on the shore's poultry industry, since its competitors are able to purchase and ship products in far greater quantities at reduced purchase and transportation costs. In response to a question by Commissioner Boggs, Mr. Redden stated that railroad cars use one-sixth the amount of fuel used by other modes of transportation. He further advised that, statistically, Worcester County has a one in 12 chance of being awarded this grant. At the request of Commissioner Shockley, Mr. Redden agreed to identify the source from Tyson referenced on page 7 of the grant application who stated that failure to upgrade the track could impact future operations at Tyson Foods in Snow Hill.

Mr. Redden presented the Commissioners with a proposal from George Miles and Buhr (GMB) of Salisbury, Maryland in the amount of \$61,900 to study the feasibility and provide master planning and marketing services for the proposed Delmarva Science and Technology Enterprise Campus to be developed on a 34-acre lot owned by the Town of Pocomoke and located near US Rt. 113 to encourage economic growth that is synergistic to existing institutions, including NASA Wallops and the University of Maryland Eastern Shore (UMES) School of Pharmacy. Mr. Redden advised that the proposal is the first real step in a joint effort by GMB, UMES, Hawk Corporation and Worcester County Economic Development, with the work to be completed in three phases: site evaluation and development feasibility; programming and conceptual master planning services; and marketing package and pro-forma development services. Mr. Redden advised that funding for the feasibility study would be provided by a \$10,000 grant from the Rural Development Center with the remaining balance to come from the Economic Development Energy Fund. In response to a question by Commissioner Busick, Mr. Redden advised that the Energy Fund balance is approximately \$700,000. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously

approved the proposal as presented. Mr. Redden stated that the feasibility study should be complete by December 1, 2009, after which he will resume discussions with 14 bio-science companies to solicit interest in relocating to Worcester County.

Pursuant to the recommendation of Recreation and Parks Director Sharon DeMar Reilly and upon a motion by Commissioner Purnell, the Commissioners unanimously approved the new hours of operation at the Worcester County Recreation Center (WCRC) from October through March as follows: 6:00 a.m. to 9:00 p.m. from Monday through Thursday; 6:00 a.m. to 5:30 p.m. on Friday; 9:00 a.m. to 5:30 p.m. on Saturday; and closed on Sunday. Ms. Reilly advised that by closing the WCRC on Sundays throughout the winter, as is the case during summer months, the County would save approximately \$10,800 in operating costs and \$3,000 in staff costs for an overall savings of approximately \$13,800. Following some discussion, Commissioner Gulyas thanked Ms. Reilly for her diligence in reducing staff and operating costs.

The Commissioners met with Ms. Reilly to review an in-house estimate by the Roads Division of Public Works for road and parking area repair work at the Bishopville Park at a cost of \$14,250. Ms. Reilly advised that she would like to reallocate a portion of the \$37,250 in funds previously designated for the acquisition of picnic tables for five park pavilions to pay for these repairs, stating that these improvements take priority over the purchase of furniture. Commissioner Busick concurred wholeheartedly with the request. Upon a motion by Commissioner Busick, the Commissioners unanimously authorized staff to complete the road and parking repairs in-house as requested.

Pursuant to the written recommendation of Public Works Director John Tustin and upon a motion by Commissioner Shockley, the Commissioners unanimously declared one County-owned bus as surplus property to be sold online at www.govdeals.com. Chief Administrative Officer Gerald T. Mason explained that the bus, which had been leased to Shore Transit and returned after operating for a total of 462,901 miles, had a blown head gasket and was no longer operational, costing an estimated \$9,000 to \$12,000 to put back in service.

Pursuant to the written request of Mr. Tustin and upon a motion by Commissioner Boggs, the Commissioners voted unanimously to schedule public hearings on October 6, 2009 to receive public comment on the proposed financing to complete construction for the fire protection project within the Ocean Pines Sanitary Service Area (OPSSA) and the north Mystic Harbour Water Tower. Mr. Mason advised that under the terms of the proposed financing for both projects, the rates would increase as follows: ratepayers in the OPSSA would experience an increase of \$6.50 per quarter; and those in the Mystic Harbour Sanitary Service Area would increase by \$13 per quarter.

Development Review and Permitting Director Ed Tudor met with the Commissioners to review a memo from Mr. Tustin outlining a Letter of Conditions from the United States Department of Agriculture (USDA) Rural Development that includes an offer of financing of \$8,800,000 to fully fund the replacement and upgrading of the Mystic Harbour Wastewater Treatment Plant (MHWWT) as follows: a 40-year loan of \$5,062,000 with an interest rate of

2.62%; and \$3,738,000 in grant funds. Mr. Tudor stated that the Sewer Committee had completed a preliminary review of the Letter of Conditions, which had not been received by the County until Friday, September 11, 2009, and had the following concerns which need clarification prior to the County's final acceptance of the offer: Buy American provisions may conflict with the County's current contract with a Canadian firm to purchase membrane equipment; confirmation that future borrowing for spray irrigation and for the north Water Tower will be acceptable under this letter; clarification that the project timetable (which is to be under construction within six months) is reasonable; and clarification of the "Facilities for Public Use" and the availability of public services as they relate to this project. Following some discussion and upon a motion by Commissioner Shockley, the Commissioners gave conceptual approval to the Letter of Conditions, subject to clarification on the issues of staff concern.

Pursuant to the request of County Engineer Bill Bradshaw and upon a motion by Commissioner Purnell, the Commissioners unanimously agreed to waive the standard bid process and accept the proposal from Telewire for the purchase and installation of telephone equipment for the newly renovated and expanded County Jail at a cost of \$20,796.56. Telewire is the current provider of the County's phone systems.

Mr. Tudor updated the Commissioners on State and Federal funding for existing as well as new land preservation programs available to Worcester County. He advised that there would be no State funding for the Maryland Agricultural Land Preservation Foundation (MALPF) in the FY10 budget, and reductions in other programs may be expected as well. Mr. Tudor informed the Commissioners that two new opportunities may be available for land preservation as follows: Maryland Conservation Reserve Enhancement Program (CREP), which pays landowners land rent to protect environmentally sensitive areas on their property; and Federal Farm and Ranch Land Protection Program (FRPP), which purchases development rights to keep productive farm and ranch land in use. Mr. Tudor stated that the Lower Shore Land Trust (LSLT) will receive \$960,000 to be used as a non-federal match for the FRPP in Worcester and Somerset Counties. Commissioner Busick stated that, with the loss of MALPF funding, the County should take advantage of the new opportunities to preserve land. Following some discussion and upon a motion by Commissioner Purnell, the Commissioners unanimously authorized staff to pursue the land preservation funding opportunities as presented.

Mr. Mason explained that Rachel McCullough, the Governor's Eastern Shore Outreach Coordinator, would be unable to meet with them at this time due to an unanticipated scheduling conflict.

Cathy Bassett, of CMBassett Consulting, LLC, and Jim Smith, of Delmarva Power, met with and sought the Commissioners' support for Pepco Holding's proposed \$1.2 billion Mid-Atlantic Power Pathway (MAPP) project. Ms. Bassett stated that it has been 25 years since the last major interstate transmission line was built in this region, and as such the Department of Energy has designated the Mid-Atlantic region as a National Interest Electric Transmission Corridor (NIETC) given its electric energy transmission capacity constraints or congestion that adversely affects consumers. Subsequently, this new project would add a 150-mile interstate

transmission line from Possum Point, Virginia to Indian River, Delaware to deliver power from existing and new power plants, including nuclear, wind, solar, fossil fuels and other renewable energy, to help reduce congestion and avoid brownouts or blackouts throughout the region. Ms. Bassett presented a PowerPoint presentation outlining the project as follows: the need for new transmission; regional benefits from MAPP; multi-layered solution; bulk transmission; MAPP, the solution; proposed renewable power in PJM; regulatory process; environmental studies; proposed line in Dorchester County; steel poles; and potential mitigation requirements.

In response to questions by Commissioner Gulyas, Ms. Bassett confirmed that the Wicomico County Executive has expressed support, and she has scheduled meetings with Somerset and Talbot County officials to solicit their support as well. She acknowledged that the Dorchester County Council (DCC) has concerns regarding the physical impact of the transmission lines and has requested consideration for underground and/or underwater installations. Commissioner Boggs outlined the DCC's concerns for those in attendance, noting that unlike in other counties where the majority of the line will be built on or adjacent to existing transmission lines and ROW, the DCC is concerned that the proposed transmission line would fragment crop land and forest land, disturb wetlands, critical areas, wildlife protection, view sheds and the general health and quality of life in Dorchester County. Commissioner Boggs stated that the two most critical issues facing the Eastern Shore are related to energy and water and questioned if the Commissioners could lend their support to the project in a manner that would not negate the DCC's concerns. Ms. Bassett sympathized with the DCC's efforts to address the concerns of its citizens, but stated that running an underground or underwater transmission line of this size would increase project costs by five to eight times and drastically reduce the ability to locate and repair line faults. She concluded that if the project does not go forward the Eastern Shore will be facing a drastic energy shortage in the near future, with rolling brownouts and blackouts during peak energy use periods; and, consumers will demand to know why nothing was done to address the problem.

In response to a comment by Commissioner Shockley, Mr. Smith noted that the existing electric transmission system dead ends at the Chesapeake Bay Bridge and Bay Bridge Tunnel, and the MAPP project would loop the Eastern Shore into the Mid-Atlantic Region to ease energy congestion. In response to a question by Commissioner Gulyas, Mr. Smith stated that the DCC opposes the project based on aesthetics, not operations. In response to a question by Commissioner Church, Ms. Bassett noted that the project would be completed in phases, all of which are in various stages of the approval process, and the portion of the line to run across the bay and through Dorchester County is not expected to go before the Public Service Commission for approval until some time next year. Mr. Smith stated that if the approval process continues to progress steadily, the entire project could be complete by June 2014. Following much discussion and upon a motion by Commissioner Shockley, the Commissioners voted unanimously to conceptually support the project with the hopes that specific details regarding the placement of the transmission lines can be worked out to address the concerns of the Dorchester County Council.

The Commissioners met in legislative session.

The Commissioners met with Mr. Tudor to discuss a proposed text amendment application submitted by Paul Ewell, which seeks to amend Sections PW 5-101 and PW 5-301 of

the Public Works Article to provide that in cooperative manufactured or mobile home parks and cooperative campgrounds, where the governing body has the authority and responsibility to manage and maintain the sanitary facilities, they will not be treated as shared facilities or public plants regardless of the type of sanitary system used. Mr. Tudor stated that the current law provides that only those cooperatives that have totally passive systems, such as pipes or mains, are exempt from classification as a shared facility or public system. Following some discussion, Commissioners Boggs, Busick, Church, Cowger, Gulyas, Purnell and Shockley introduced the proposed bill as Bill 09-6 (Public Works - Shared Sanitary Facilities and Service Areas for Manufactured or Mobile Home Parks and Campgrounds) and agreed to schedule a public hearing on the bill to be held on October 20, 2009.

The Commissioners met with Mr. Tudor to discuss a proposed text amendment application submitted by attorney Mark Cropper with some suggested language having been proposed by staff. Mr. Tudor reviewed the circumstances that lead up to the text amendment, noting that Mr. Cropper was concerned by the implications to the Public Works Article from certain changes in nomenclature proposed for the draft Zoning Code, specifically the elimination of the term “planned commercial developments,” which would cause certain commercial developments to now be created as sanitary service areas and taken over by the County for operation. Mr. Tudor noted that the Sewer Committee had discussed the issue and felt that some limitation on the size of systems affected by the proposed language was appropriate, and the language in the proposed text amendment was revised accordingly to apply only to systems treating less than 50,000 gallons per day (gpd). Commissioner Shockley noted that the proposed amendment is in response to a law that the Commissioners have not yet passed and asked if it would be more beneficial to wait and pass the amendment after the draft Zoning Code has been approved. County Attorney Sonny Bloxom advised that this text amendment is needed to avoid County operation of the Ocean Landings Treatment Plant, which will serve Walmart and Home Depot. He stated that unlike residential facilities, private operation of a treatment plant serving commercial properties is appropriate as the store will simply have to shut down if there are problems in the system. In response to a question by Commissioner Gulyas, Mr. Tudor stated that treatment plants serving residential developments could not take advantage of the same provisions for private operation. Following some discussion, Commissioners Boggs, Busick, Church, Cowger, Gulyas, Purnell and Shockley introduced the proposed bill as Bill 09-7 (Public Works - Sanitary Service Areas for Shopping Centers) and agreed to schedule a public hearing on the bill to be held on October 20, 2009.

Commissioner Gulyas closed the legislative session.

The Commissioners answered questions from the press, after which they adjourned to meet for lunch with the Board of Education.

The Commissioners met with Board of Education (BOE) President Bob Hulburd, Vice President Bob Rothermel, Jonathan Cook, J. Douglas Dryden, Garry Mumford, Donnie Shockley and Sara Thompson and Superintendent of Schools Dr. Jon Andes to discuss strategies to address anticipated shortfalls in the FY11 County Operating Budget. Both the Commissioners and the BOE confirmed the importance of keeping an open dialog with one another as they work through budget issues.

The Commissioners adjourned to meet again on October 6, 2009.