

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

November 3, 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), (3), (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; John Tustin, Director of Public Works; and John Ross, Deputy Director of Public Works. Topics discussed and actions taken included: appointing Tommy Tucker and Bonnie Caudell and reappointing John Payne to the Commission on Aging Board; appointing Janet Rosensteel to the Recreation Advisory Board; appointing Natural Resources Administrator Chris McCabe to serve as the County representative to the Maryland Coastal Bays Foundation Board of Directors; considering acquisition of real property for a public purpose; 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 October 20, 2009 meeting, as presented.

The Commissioners presented a proclamation to John and Diane Baldwin and Bruce Miller of the local People of Mother Earth - Wolf Clan recognizing November as Native American Heritage Month and specifically highlighting November 27 as Native American Heritage Day.

The Commissioners presented a retirement commendation to Sergeant Hal "Gunny" Shields for investing 11 years of his life as a valued member of the Sheriff's Office where he helped to protect area residents and visitors.

The Commissioners met with Dr. Roman Jesien of the Maryland Coastal Bays Program (MCBP) to discuss the proposed creation of a kayak and canoe launch at Ayres Creek, the site of the former Ocean City Municipal dump. Dr. Jesien explained that the MCBP has secured a \$49,000 grant from the State Highway Administration (SHA) to improve the property by installing an automatic gate at the entrance, grading portions of the existing road, creating parking, a walkway and kayak launch. He confirmed that the landfill has been capped, and groundwater monitoring reports show that there are no contaminants leaching from the property. He further advised that the MCBP will lose SHA funds if they do not move forward with the project soon. With regard to the project itself, Dr. Jesien stated that the Town of Ocean City has agreed to maintain the site, with Worcester County Government to lease the property at an annual cost of \$1 and assume liability. Commissioner Shockley stated that in concept the project itself is a good one, but he could not ask the taxpayers of Worcester County to shoulder the burden of liability. Commissioner Cowger agreed and noted that he had walked the site and determined that there was some debris protruding from the ground, especially along the shoreline. Commissioner Purnell noted that he is not opposed to the project, but was strongly opposed to the County assuming liability for the site due to concerns about the amount and type of debris that was buried on that site. Commissioner Boggs stated that the County would be taking on more than just liability for the kayak and canoe launch, as the sponsor would also be tasked with meeting the requirements of the Americans with Disabilities Act (ADA); and completing the National Environmental Policy Act (NEPA) studies. Commissioner Gulyas stated that the \$49,000 SHA grant was not enough to fund the improvements needed to bring the site into compliance with ADA regulations. However, she would support MCBP's request. Commissioner Church stated that he had walked the property extensively and saw nothing that would indicate a heightened level of liability within the immediate vicinity of the proposed kayak and canoe launch site. He further stated that the Town of Ocean City assumes more potential liability on the County-owned baseball fields and skate park at 3<sup>rd</sup> Street in Ocean City than the County would assume for this project. In response to a question by Commissioner Church, Dr. Jesien confirmed that the entrance gate to the canoe and kayak launch would remain open during the day and locked at night. He further stated that MCBP is not asking the County for any money for the project.

Following much discussion, a motion by Commissioner Church to approve the request of the MCBP failed 3-4, with Commissioners Busick, Church and Gulyas voting in favor and Commissioners Boggs, Cowger, Purnell and Shockley voting in opposition.

Pursuant to the written recommendation of Housing Program Administrator Jo Ellen Bynum and upon a motion by Commissioner Boggs, the Commissioners unanimously awarded the low bid for the general rehabilitation of a home in the Snow Hill area to Munro Building Services, LLC of Berlin, Maryland at a cost of \$19,276.

Pursuant to the written request of Ms. Bynum and upon a motion by Commissioner Boggs, the Commissioners unanimously approved bid specifications for two general rehabilitation projects in the Berlin area and a separate package for a lead abatement and general rehabilitation project on a single-family home in the Pocomoke City area, with the first two projects to be funded through the State Special Loans Program (SSLP) and Community

Development Block Grant (CDBG) funds and the second to be funded by the Lead Hazard Reduction Grant and Loan Program as well as SSLP and CDBG funds.

Pursuant to the written request of Ms. Bynum and upon a motion by Commissioner Purnell, the Commissioners unanimously authorized Commission President Gulyas to sign the Statutory Worksheet, which must be submitted in compliance with the Maryland CDBG Program in order for the County to receive \$300,000 in grant funding to continue the Worcester County Housing Rehabilitation Program. The Commissioners further approved the release of the Notice to Public of Intent to Release Funds from the Maryland CDBG Program to be used to rehabilitate 18 houses for low and moderate income persons residing within Worcester County at a total cost of up to \$865,505.

The Commissioners conducted a public hearing to consider an alleged mapping error and request for the removal of 113.92 acres of land from the Atlantic Coastal Bays Critical Area (ACBCA) as submitted by Spencer Rowe on behalf of Tony Russo. Development Review and Permitting Director Ed Tudor stated that the applicant alleges that an error occurred in the original mapping of the tidal wetlands line resulting in the erroneous inclusion of certain properties or portions of properties in the ACBCA, more particularly described as Parcels 14, 64, 65, 69, 70, 76, 77, 78, 80, 101, 106, 111, 142, 148, 149, 150, 151, 205, 207, 219, 254, 255, 259, 269, 272, and 296 as shown on Worcester County Tax Map 21. The subject properties are located along the westerly side of Maryland Rt. 589, north of Griffin Road and along Adkins Road in the 3<sup>rd</sup> Tax District of Worcester County. Mr. Tudor stated that, on behalf of Tony Russo, Spencer Rowe petitioned the State of Maryland alleging that an error occurred in the original mapping of the tidal wetlands line, which resulted in the erroneous inclusion of these properties or portions in the ACBCA, and the State subsequently agreed and amended the Tidal Wetlands Map. Mr. Tudor concluded that pursuant to local law, both County staff and the Planning Commission recommend the Commissioners correct the County's program maps to reflect this change.

Commissioner Gulyas opened the floor to receive public comment.

Hugh Cropper, attorney for Mr. Russo, asked the Commissioners to concur with staff's recommendation and approve the request.

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

Upon a motion by Commissioner Church, the Commissioners unanimously adopted Resolution No. 09-22 correcting the mapping error involving the referenced properties in the ACBCA, Worcester County, Maryland as presented.

Pursuant to the recommendation of Public Works Director John Tustin and upon a motion by Commissioner Church, the Commissioners unanimously awarded the low bids for the purchase of one 2010 Ford Expedition SSV full-size 4x4 to Hertrich Fleet Services of Milford, Delaware at a cost of \$29,945 and one 2010 Model Ford E4F E450 Rapid Deployment Vehicle to Bob Bell Automotive Group of Baltimore, Maryland at a cost of \$60,223 for the Worcester County Sheriff's Office. In response to a question by Commissioner Church regarding the difference between the estimated cost of \$36,300 and the actual cost for the Rapid Deployment Vehicle, Lieutenant Lee Holloway of the Sheriff's Office explained that the Sheriff's Office had previously received a cost estimate on a demo vehicle, which was no longer available. However,

he explained that funds were available through savings on other vehicles purchased and through seized/forfeited funds.

The Commissioners met with Mr. Tustin to discuss the need to install 10 new wastewater injection wells in the Mystic Harbour Sanitary Service Area (MHSSA). Mr. Tustin explained that since completing the improvements at the Mystic Harbour Wastewater Treatment Plant (MHWWTP), staff found that there is a significant deficiency in wastewater disposal capacity, and 10 new injection wells are needed to resolve this situation. He stated that the \$40,000 needed to purchase and install the wells is not included in the FY10 budget and would be taken from MHSSA reserves. Upon a motion by Commissioner Church, the Commissioners approved bid specifications for installation of 10 new wastewater injection wells in the MHSSA.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Boggs, the Commissioners unanimously accepted the proposal from EA Engineering, Science and Technology, Inc. of Ocean Pines, Maryland for the Ocean Pines Fire Protection Project engineering, consulting and design services on a time and materials basis at an estimated cost of \$22,179, which includes \$5,234 for field investigation, \$11,888 for preparing contract documents; and \$5,057 for bidding services.

The Commissioners met with Development Review and Permitting Director Ed Tudor and Environmental Programs Manager Bob Mitchell to review a Shared Sanitary Facility Agreement and accompanying resolution for two lots owned by Denny Sharp, which are located at 4512 Public Landing Wharf Road and shown as Parcels 5 and 7 on Worcester County Tax Map 73. Mr. Mitchell stated that a septic system has been installed and inspected on the Sharp property on Parcel 5, and Mr. Sharp would like to install a septic tank, lift station and sewer main to connect a garage cottage located on Parcel 7 to the septic system, as well as a septic pretreatment system on Parcel 5. Mr. Mitchell further stated that Mr. Sharp will consolidate the two lots and record an agreement that the two parcels cannot be separated unless public sewer is brought to the area. In response to a question by Commissioner Gulyas, Mr. Mitchell explained that Parcel 7 cannot accommodate a separate septic system to serve the cottage. However, if sewer service becomes available in the future, both sites would be served separately. Following some discussion and upon a motion by Commissioner Cowger, the Commissioners voted 6-1, with Commissioner Gulyas voting in opposition, to adopt Resolution No. 09-23 establishing a Shared Sanitary Facility serving lots owned by Denny Sharp as shown on Tax Map 73, Parcels 5 and 7 in Worcester County, Maryland, and the Commissioners further authorized Commission President Gulyas to sign the Shared Sanitary Facility Agreement.

The Commissioners met with Mr. Tudor to review the Nuisance Abatement request for properties owned by New England Developers, Inc. and located at Pennington Place near Ocean Pines and identified on Tax Map 21 as Parcel 144, Lots 6, 7, 8, 10, 11, 14, 15 and 16. Mr. Tudor stated that the specific conditions found on the property include the uncontrolled growth of grass and other rank vegetation on numerous lots in the Pennington Estates development along MD Rt. 589. Mr. Tudor stated that at one time all of the lots in this subdivision had vegetation that exceeded the maximum allowed height of one foot. However, after being contacted by County staff, the condition of the lots owned by the Pennington Limited Partnership were promptly

addressed. He went on to explain that despite staff's best efforts to contact New England Developers, Inc. the vegetation remains uncut on these eight lots. Upon a motion by Commissioner Boggs, the Commissioners unanimously declared the properties a public nuisance and ordered the abatement of such nuisances by no later than November 16, 2009.

At the behest of Commissioner Shockley, the Commissioners discussed immediately assembling a local development council (LDC) to assess the impact of slots at the Ocean Downs Racetrack on the surrounding community, including road impacts on MD Rt. 589. The Maryland Code, Section 9-1A-31(c) of the State Government Article states that the County Commissioners of Worcester County shall appoint the LDC and provides for 15 members, including the Senator or Senator's designee, both Delegates or the Delegates' designees, a representative from Ocean Downs, seven community residents and four nearby business representatives. In response to a comment by Commissioner Shockley, County Attorney Sonny Bloxom stated that the LDC is an advisory committee tasked with assessing the impact of slots on the community and making funding recommendations to the Commissioners to help address such impacts. He stated that though they would not be tasked with making decisions prior to the onset of slots in Worcester County, the LDC could begin looking at possible future impacts, such as traffic on MD Rt. 589, and provide the Commissioners with recommendations on how to address such impacts should they arise.

Commissioner Busick stated that the impact of slots in Worcester County will extend far beyond that of traffic, citing instances of increased violence, poverty and other social issues wherever gaming is permitted. She supported establishing the committee now to give members time to familiarize themselves with these impacts.

Commissioner Gulyas stated that slots will have a significant impact on the Town of Ocean City, and the sooner the LDC can be established the better prepared its members will be to address these impacts.

Commissioner Boggs noted that the responsibilities of the LDC are so narrow that it would be premature to appoint members at this time, particularly as they could only guess at how future impacts would affect various areas of Worcester County. She stated that the State Highway Administration (SHA) is the only office tasked with addressing traffic impacts, and seem to be doing a great job of apprising the community of changes that are on the horizon. She further stated that the STAR 589 committee is already providing input to SHA on the road design issues.

Commissioner Church stated that there are inherent problems with gaming wherever it exists, and the LDC could spend time learning about these issues in advance of slots in Worcester County.

Following much discussion and upon a motion by Commissioner Shockley, the Commissioners voted unanimously to move forward with plans to establish the LDC as soon as possible. Commissioner Boggs explained that she voted for the motion, although she has concerns about the timing.

The Commissioners recessed until 11:30 a.m.

The Commissioners met with SHA Project Manager Carmaletta Harris, and SHA members Donnie Drewer, Nichol Washington and Alvaro Sifuentes to preview the MD 589

Corridor Feasibility Study, prior to the stakeholders meeting scheduled for Thursday, November 12, 2009 at the Ocean Pines Branch of the Worcester County Library at 6:00 p.m. and the public meeting scheduled to take place on Tuesday, November 17, 2009 from 4:00-7:30 p.m. at the Stephen Decatur Middle School Cafeteria. Ms. Harris thanked Commissioners Boggs and Busick for working closely with SHA officials on issues pertaining to MD Rt. 589. Ms. Harris reviewed the purpose of the study, which is to immediately relieve projected summer traffic congestion and to improve traffic safety along MD Rt. 589 and at the intersection of MD Rt. 589 and US Rt. 50 associated with the installation of slots at the Ocean Downs Racetrack, and to investigate a broad range of short and long-term improvements that address land use, zoning, development, local access and circulation, access management, bicycle and pedestrian facilities, and emergency evacuation. Ms. Harris stated that upgrades would include intersection improvements, such as the addition of turn lanes or improved signal timing; access management strategies to improve safety and operations at access points; new travel lanes along short segments of the roadway to accommodate new turning movements or improve capacity; and safety improvements for pedestrians and bicyclists.

Mr. Sifuentes stated that short term improvements to MD Rt. 589 include a wide range of spot improvements throughout the corridor that focus on mitigating any traffic impacts caused by slots at the Ocean Downs Racetrack. He advised that long-term improvements would include a new interchange at MD Rt. 589 and US Rt. 50 along with improvements to selected intersections to increase safety and capacity while accommodating planned growth in the corridor. He reiterated that the long-term improvements are designed to address safety concerns and traffic conditions by the 2030 time frame, and currently there is no funding for this project. Mr. Sifuentes outlined the two MD Rt. 589 Typical Section Concepts, both of which include plans to dualize the road, as follows: Closed Typical Section Concept, which provides for a thru traffic speed of 40 miles per hour (mph) and would include curb and gutter to collect and direct runoff to stormwater management facilities, 11-foot inside travel lane and a 15-foot-wide outside travel lane to accommodate bicyclists; and Open Typical Section Concept, which would include two 12-foot-wide travel lanes in each direction with 8-foot wide outside shoulders in both directions for open ditches to collect and treat stormwater runoff. Mr. Sifuentes also reviewed three concepts for the MD Rt. 589 and US Rt. 50 Interchange and advised that the public would have the opportunity to weigh in on each of the proposals.

Commissioner Boggs stated her appreciation of the proposed hiking and biking trails and median strip. In response to a question by Commissioner Boggs, Mr. Sifuentes advised that current spot improvements would include the widening of MD Rt. 589 from Pennington Commons through Manklin Creek Road, with a second left turn lane to be added for traffic on Manklin Creek Road traveling south on MD Rt. 589. He further confirmed that the three interchange concepts include the following common features: MD Rt. 589 overpass across US Rt. 50 that connects to the US Rt. 50 Service Road; wider turn lanes; closing Gray's Corner Road just west of MD Rt. 589 to thru traffic; and realigning the existing intersection. In response to a question by Commissioner Gulyas, Mr. Sifuentes stated that Concept 3 would potentially result in five residential displacements and two business displacements. By comparison, Concept 1 may result in four residential and two business displacements, while Concept 2 may result in only three residential and two business displacements.

In response to a question by Commissioner Busick, Mr. Sifuentes stated that the feasibility study outlines the need for a four-lane highway throughout the length of MD Rt. 589.

In response to a question by Commissioner Boggs, Mr. Drewer confirmed that Bill Rickman, Owner of Ocean Downs Racetrack, has agreed to fund all short-term improvements on MD Rt. 589 that run in front of his property. Mr. Drewer confirmed that future improvements to MD Rt. 589 would be completed in phases as funding becomes available.

Delegate Jim Mathias assured the Commissioners that he and Delegate Norman Conway are deeply committed to addressing traffic concerns on MD Rt. 589 and will support future funding for this project. Following some discussion, Commissioner Gulyas thanked SHA members for meeting with them and looked forward to receiving an update on plans for MD Rt. 589 in the near future.

The Commissioners answered questions from the press, after which they adjourned for lunch.

After lunch, the Commissioners reconvened in open session.

The Commissioners met with Dr. Jon Andes, Superintendent of Schools, Board of Education (BOE) President Bob Hulburd, BOE Assistant Superintendent for Administration Ed Barber, Chief Financial Officer Vince Tolbert, and Facilities Manager Joe Price to review and discuss the BOE's proposed FY2011 Public School Construction and Capital Improvement Plan (CIP). Dr. Andes thanked the Commissioners in advance for their support of the CIP and advised that the CIP has been developed in accordance with Maryland Interagency Committee for Public School Construction (IAC) guidelines. He noted that the BOE is not requesting additional school construction funding in FY11, as Pocomoke High School (PHS) renovations and additions remain their top priority for the upcoming year, with the project in line with the projected budget. He stated that the proposed FY11 CIP is consistent with the Worcester County Ten Year Capital Improvement Plan and incorporates the prior recommendations of the County Commissioners regarding future school construction needs as follows: continued construction of PHS, including the final \$403,000 in eligible state funding for PHS, which was approved in FY10 for a total of \$7,229,000 in State funds for this project; architectural and engineering design for renovations and additions to Snow Hill High School (SHHS) have been completed and the project is ready to move forward, with funding to be requested for construction in FY13 to be available by July 1, 2012. Other future projects include whether to renovate or replace Showell Elementary School (SES) when funds become available. He stated that with the Commissioners' approval, BOE members anticipate seeking State authorization to begin architectural planning for SES in FY14 and construction funding in FY16.

In response to a question by Commissioner Shockley, Dr. Andes confirmed that the tentative maximum state budget for SHHS is computed using the proposed State scope of 57,800 square feet and the Interagency Committee (IAC) on Public School Construction ruling that State participation would be based upon the partial renovation in 1982, which was limited to the addition of air conditioning and mechanical system upgrades, rather than the original 1958 construction date, which would reduce the amount of State funding for the project from \$6,436,000 to \$4,772,000. He explained that school facilities must be forty years old to qualify for full systemic renovations. Dr. Andes explained that the BOE would be required to submit the plan to the IAC with the Commissioners' approval by 4 p.m. on November 30, 2009, and therefore asked that the Commissioners approve the proposed CIP as a planning document, with

individual project approval contingent on the availability of funds. Following some discussion, and upon a motion by Commissioner Purnell, the Commissioners conceptually approved the FY11 Public School Construction CIP.

The Commissioners met with Development Review and Permitting Director Ed Tudor and Deputy Director Phyllis Wimbrow to further review public requests for zoning changes as listed in Sections 13 (all written zoning map requests) and Section 14 (staff and Planning Commission responses to each written zoning map request) of the Zoning Work Session Binders, as requested by the Commissioners following completion of their work session on the Zoning Maps (the Maps) on October 20, 2009. The Commissioners addressed various individual property owners' requests and the associated comments by staff and the Planning Commission as follows:

Commissioner Cowger questioned the recommendation to change a 5.3-acre property located on the easterly side of MD Rt. 611 (Map 33, Parcel 136), from B-2 General Business District to A-2 Agricultural District and requested the Commissioners reconsider the property owner's request to retain an equivalent commercial zoning designation, as the property is identified as an "Existing Developed Area" in the Worcester County Comprehensive Plan and since the Planning Commission granted site plan approval for mini storage on the site. Commissioner Church recused himself from the discussion with regard to this property due to a potential conflict of interest. Mr. Tudor advised that the County Comprehensive Plan calls for reduction of commercial zoning, and A-2 designations were appropriate for this area; however, the owner's site plan approval remains current and would be grandfathered for a period of two years upon approval of the new regulations. Commissioner Cowger stated that he could not support the down-zoning of people's properties. In response to a question by Commissioner Boggs, Mr. Tudor stated that down-zoning this district would reduce the overabundance of commercial zoning in the area. Following some discussion and upon a motion by Commissioner Cowger, the Commissioners voted 5-1, with Commissioner Boggs voting in opposition and Commissioner Church recusing himself from the discussion and abstaining from the vote, to zone the property C-2 to remain consistent with the existing zoning.

Commissioner Church questioned the recommendation to change a property shown as Parcel 66 on Tax Map 21 and is located on the easterly side of MD Rt. 589 immediately south of the southerly boundary of Ocean Pines and is proposed to be zoned R-1 Rural Residential, though the property owner requested the property be zoned C-2 to accommodate medical offices for Atlantic General Hospital (AGH). Commissioner Gulyas stated that all existing zoning should be retained on properties along MD Rt. 589 until traffic and safety issues on this impacted road are addressed. Commissioner Busick agreed and stated that the Comprehensive Plan calls for no further zoning intensification on MD Rt. 589 until improvements are made. Commissioner Busick initially made a motion to retain all existing zoning on MD Rt. 589, but later withdrew her motion and accepted the Planning Commission's recommendations along this corridor. After much discussion and upon a motion by Commissioner Busick, the Commissioners voted 4-3, with Commissioners Boggs, Busick, Gulyas and Shockley voting in favor and Commissioners Church, Cowger and Purnell voting in opposition, not to accept staff's recommendation to zone the property R-1 and instead zone the property A-1.

Commissioner Church questioned the recommendation to down-zone a property located on the westerly side of MD Rt 611 just north of Sinepuxent Road and shown on Tax Map 26 as

Parcel 3A totaling 37.13 acres from R-3 Multi-Family Residential District to R-2 Suburban Residential District; and Parcel 3B totaling 2.03 acres from B-1 Neighborhood Business District to C-1 Neighborhood Business District. The property owner has requested Parcel 3B be zoned C-2 General Commercial District and 3A maintain its current R-3 zoning. Mr. Tudor noted that Parcel 3A is within the Green Infrastructure Land Use Category while Parcel 3B is within the Existing Developed Area Land Use Category and would retain its existing uses. Following some discussion and upon a motion by Commissioner Church, the Commissioners voted unanimously to retain the R-3 zoning of Parcel 3A and confirmed the recommended C-1 zoning of Parcel 3B.

Commissioner Church questioned the recommendation to down-zone a 7.51-acre property located on the westerly side of MD Rt. 611 north of Sinepuxent Road and south of Sunset Avenue and shown on Tax Map 26 as Lots 1A and 1B of Parcel 274 from B-1 Neighborhood Business District to C-1 Neighborhood Commercial District. Commissioner Church observed that the C-1 zoning is more restrictive than the current B-1 district regulations. Mr. Tudor stated that staff made a conscious decision to transition from the more dense and more commercialized areas around Sunset Avenue, which are to be zoned C-2, to zoning and uses that were less so as one moved south along MD Rt. 611. Commissioner Shockley stated that B-1 to C-1 is not a down-zoning. A motion by Commissioner Church to zone Lots 1A and 1B of Parcel 274 as C-2 died for lack of a second.

Commissioner Boggs questioned the recommended C-2 General Commercial District for two properties located on the easterly side of Seahawk Road to the south of US Rt. 50. The more northerly property, shown on Tax Map 25 as Parcel 518 is 34.19 acres and currently zoned B-2. The southerly property shown on Map 25 as Parcel 91, which is approximately 90.5 acres, is currently zoned A-1 Agricultural District. Mr. Tudor stated that both properties are recommended to be placed in the C-2 General Commercial District, though the property owner is requesting Parcel 91 to be zoned C-3. Commissioner Boggs stated that even the proposed C-2 zoning would place too great an additional traffic burden on Seahawk Road near the Stephen Decatur Middle and High Schools and Flower Street. Commissioner Purnell concurred and stated that Flower Street residents are concerned about the impact of a large shopping center on their neighborhood. Commissioner Church stated that the property owner has a great deal of time and money invested in plans to develop this site, and it would be unfair for the Commissioners to down-zone this property. Following some discussion and upon a motion by Commissioner Purnell, the Commissioners voted 5-2, with Commissioners Church and Cowger voting in opposition, not to accept staff's recommendation to zone Parcel 91 as C-2 and instead retain the existing A-1 zoning.

Commissioner Busick questioned the recommended down-zoning of a property located within the Showell "Oxbow" and shown on Tax Map 15 as Parcel 114 from B-2 General Business District to C-1 Neighborhood Commercial District, with RP Resource Protection District zoning along the branch. Mr. Tudor advised that the proposed C-1 zoning would permit the property owner to construct a mini-storage unit on his property as proposed and that neighborhood commercial zoning (C-1) was more appropriate than regional commercial zoning (C-2) in this area. Commissioner Busick stated that the Commissioners previously agreed that this area should be C-2 General Commercial District. Upon a motion by Commissioner Busick, the Commissioners voted unanimously not to accept staff's recommendation to zone the property C-1 and instead directed staff to zone all properties located within the Showell "Oxbow" area as C-2, except the area along the branch which would be zoned RP.

Commissioner Busick questioned the staff recommendation to down-zone a property located on the northeasterly side of MD Rt. 589 just north of MD Rt. 90 at Ocean Pines and shown on Tax Map 16 as Parcel 24 from B-1 Neighborhood Business to R-2 Suburban Residential, as the property owner proposes to develop a medical/professional park and related services on that site. Mr. Tudor stated that because of its extremely close proximity to the north-bound off-ramp of MD Rt. 90 staff has grave concerns about commercial development given the serious potential for unsafe ingress and egress due to conflicting vehicular movements, and the R-2 district is the most compatible with the adjacent areas of Ocean Pines. He noted that the Planning Commission did not concur with staff's recommendation and recommends the site be placed in the C-1 district. Upon a motion by Commissioner Busick, the Commissioners voted 6-1, with Commissioner Shockley voting in opposition, not to accept staff's recommendation to zone the property R-2 and instead accept the Planning Commission's recommendation to zone the property C-1.

Commissioner Busick asked the Commissioners to reconsider retaining the existing E-1 Estate District zoning of properties located along McAllister Road, north of US Route 50 and west of MD Route 589. Mr. Tudor explained that staff recommended R-1 zoning in order to eliminate the E-1 zoning as proposed by the Comprehensive Plan. Upon a motion by Commissioner Busick, the Commissioners voted unanimously not to accept staff's recommendation to zone the property R-1 and instead retain the existing E-1 Estate District and A-1 Agricultural District zoning on all properties along McAllister Road.

Commissioner Shockley referred to the request of a property owner with a 160-acre parcel located on Five Mile Branch Road and zoned A-1 Agricultural District who has already exhausted her five subdivision rights as permitted in the minor subdivision regulations, but would like to give an additional lot to her grandson. Commissioner Shockley stated that Worcester County should support such requests to keep farms in operation, and he suggested amending the Zoning Code to permit two additional lots to be subdivided for immediate family members only, for a total seven lots, with the restriction that such family parcels cannot be sold within 10 years from the date the property is subdivided. Commissioner Boggs stated that lots provided for family members would not likely protect farmland, since circumstances such as divorce, death and foreclosure could cause the lot to then be transferred to a non-family owner. Commissioner Gulyas stated that such a change would open a can of worms on development of farmland in Worcester County and therefore could not support the request. A motion by Commissioner Shockley to work up language to revise the existing regulations to increase the number of lots that can be subdivided in the A-1 Agricultural District for immediate family members from five to seven died for lack of a second.

Commissioner Shockley expressed concern about the limitation on the size of home occupations in the Agricultural Districts. In response to a question by Commissioner Shockley, Mr. Tudor confirmed that home occupations of 600 square feet are permitted by right, but on larger lots consisting of 80,000 square feet or more, a home occupation of up to 1,500 square feet is permitted by special exception within the A-1 and A-2 districts. Upon a motion by Commissioner Shockley, the Commissioners unanimously directed staff to draft language to be included in the Code that would increase the permitted size of home occupations on 80,000 square foot parcels from 600 square feet to 3,000 square feet by right within the A-1 and A-2 districts.

Commissioner Shockley asked the Commissioners to reconsider retaining the existing A-1 zoning rather than the proposed RP Resources Protection District classification for a property located on Tax Map 80 as Parcel 56, so the property owner can build a home on the site. Mr. Tudor stated that after considering the purpose and intent statement of the RP Resource Protection District and further review of the soil types, the Planning Commission concluded that it is evident that the lands are not suitable for development and should remain RP as proposed. In response to a question by Commissioner Gulyas, Mr. Tudor confirmed that, even with the RP zoning designation, the property owner could apply for a special exception to build a house on the site. Upon a motion by Commissioner Shockley, the Commissioners voted unanimously not to accept staff's recommendation to zone the property RP and instead retain the existing A-1 zoning designation.

Mr. Tudor reconfirmed the Commissioners' decision to zone a property located on Tax Map 21 Parcel 66 from R-1 to A-1, and pointed out that Parcel 72, located immediately to the south of said property, is proposed to be zoned R-1. He recommended the Commissioners zone both properties either A-1 or R-1 for continuity. A motion by Commissioner Cowger to zone Parcels 66 and 72 on Tax Map 21 as R-1 failed, with Commissioners Church, Cowger and Purnell voting in favor and Commissioners Boggs, Busick, Gulyas and Shockley voting in opposition to the motion. Upon a motion by Commissioner Busick, the Commissioners voted 4-3, with Commissioners Boggs, Busick, Gulyas and Shockley voting in favor and Commissioners Church, Cowger and Purnell voting in opposition, to zone both parcels A-1.

The Commissioners recessed for 30 minutes while the Zoning Maps were revised to reflect the changes approved by the Commissioners.

Mr. Tudor reviewed the revised Zoning Maps which were amended as requested by the Commissioners

The Commissioners met in special legislative session.

Assistant Chief Administrative Officer Kelly Shannahan reviewed the proposed amendments to Emergency Bill 09-1 (Zoning and Subdivision Control Article), as approved at their Zoning Work Session on October 6, 2009 and the revision to Section ZS 1-339 (Home Occupations) which would permit the construction of a single accessory building to be constructed for a home occupation to comprise up to three thousand square feet in gross floor area in the A-1 and A-2 Districts on parcels greater than eighty thousand square feet in area. Upon a motion by Commissioner Shockley, the Commissioners unanimously approved the amendment to Emergency Bill 09-1 for Home Occupations in the A-1 and A-2 Districts as presented.

Upon a motion by Commissioner Boggs, the Commissioners unanimously approved the amendments to Emergency Bill 09-1 as agreed at their Zoning Work Session on October 6, 2009 as presented.

Upon a motion by Commissioner Shockley, the Commissioners voted unanimously to adopt Emergency Bill 09-01 (Zoning and Subdivision Control Article), as amended, for the purpose of repealing and re-enacting the Zoning and Subdivision Control Article of the Code of Public Local Laws of Worcester County, Maryland to include a new Zoning Ordinance, Subdivision Regulations, Additional Land Use Controls and Zoning Commitments.

Commissioner Gulyas closed the special legislative session.

Upon a motion by Commissioner Boggs, the Commissioners voted 6-1, with Commissioner Cowger voting in opposition, to adopt Resolution No. 09-24, adopting the Comprehensive Rezoning Maps for Worcester County, Maryland as amended. Commissioner Cowger stated that he could not support the down zoning of any property. Therefore, he could not vote to approve the revised maps.

Upon a motion by Commissioner Boggs, the Commissioners unanimously adopted Resolution No. 09-25 adopting the Design Guidelines and Standards for Commercial Uses for Worcester County, Maryland as amended at their Zoning Work Session on October 6, 2009.

The Commissioners answered questions from the press, after which the board adjourned to meet again on November 17, 2009.