

Minutes of the County Commissioners of Worcester County, Maryland

December 15, 2009

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

Following a motion by Commissioner Purnell, seconded by Commissioner Shockley, 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; Kathy Whited, Budget Officer; Kim Moses, Public Information Officer; and George Bradley, Director of Human Resources. Topics discussed and actions taken included: acknowledging the hiring of Stephen Gulyas as a Deputy Sheriff trainee in the Sheriff's Office; considering appointments to the Local Development Council for the Ocean Downs Video Lottery Facility; reappointing Earl Ludey and Kathy Drew to the Agricultural Preservation Advisory Board, reappointing Betty McDermott to the Agricultural Reconciliation Board, reappointing Ralph Shockley and Robert Fisher to the Economic Development Advisory Board, reappointing Jamie Englishmen to the Board of Electrical Examiners, reappointing Sherwood Brooks to the Housing Review Board, reappointing Mark Frostrom and Claudia Nagle to the Initiative to Preserve Families Board, reappointing Bill Killinger to the Shoreline Commission, reappointing Wendell Purnell to the Solid Waste Advisory Committee, reappointing Annemarie Dickerson to the Tourism Advisory Committee, and reappointing Ralph Giove to the Water and Sewer Advisory Committee for the West Ocean City Service Area; 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 Church called the meeting to order and announced the topics discussed during the morning closed session.

The Commissioners reviewed and approved the minutes of their December 1, 2009 meeting, as presented.

The Commissioners presented a plaque to Irma Lee Henshall in honor of her generous donation of an agricultural easement along the Pocomoke River in Worcester County to the

Maryland Agricultural Land Preservation Foundation (MALPF). Development Review and Permitting Director Ed Tudor stated that the property is unique in a number of ways and the donation is the first of its kind in Worcester County and only the second in the State of Maryland. He highlighted excerpts from an article entitled "Retired Educator Donates Easement to MALPF," which was written by Katherine Munson of DRP and published in the Fall 2009 edition of the Worcester County MALPF Program Newsletter. He stated that because Ms. Henshall grew up on a farm near Snow Hill, her family had plenty of food during the Great Depression; however, she was profoundly aware that others had little to eat. He stated that her gift of the easement to protect farm and forest land reminds each of us of the importance of preserving our natural environment as well as Ms. Henshall's own words of wisdom that "there are more important things in life than just making money." MALPF Chair Vera Mae Shultz and Program Administrator Carol Council publicly expressed their sincere appreciation of her gift and advised that this is only the second easement donated to MALPF in the program's 27-year history. Ms. Shultz stated that the donation comes at a time of economic crisis when MALPF is unable to purchase the easements needed to protect farmland. Commissioner Church stated that Ms. Henshall's gift speaks volumes to the community, and he thanked her for joining them today.

Mr. Tudor informed the Commissioners that the County's Agricultural Land Preservation Program has been conditionally certified by the Maryland Department of Planning (MDP) and the Maryland Agricultural Land Preservation Foundation for July 1, 2009 through June 30, 2010, and once the County officially approves the priority preservation areas (PPA) plan element, the County can receive a full three-year certification for the period FY10 to FY13. In response to a question by Commissioner Gulyas regarding concerns raised by MDP about the County's Zoning Code, Mr. Tudor advised that many of MDP's concerns regarding zoning have been addressed. However, he agreed to further discuss these concerns at the Commissioners' next meeting when he presents the draft PPA plan element.

Pursuant to the request of Housing Program Administrator Jo Ellen Bynum and upon a motion by Commissioner Gulyas, the Commissioners unanimously awarded the low bid for housing rehabilitation and lead abatement work to be done at a property in the Pocomoke area to Shoreman Construction of Delmar, Maryland at a cost of \$56,136 with partial funding to be provided using the County's new Maryland Housing Rehabilitation Program (MHRP) grant. She stated that award of the contract will be contingent upon the homeowner's approval for supplemental funding from the State Special Loans Program (SSLP).

Pursuant to the recommendation of Ms. Bynum and upon a motion by Commissioner Shockley, the Commissioners unanimously agreed to waive the newly revised bid specifications, which require contractors to post their bids on company letterhead, and awarded the low bids for two general rehabilitation projects in the Berlin area to be funded through the SSLP and MHRP grant funds to Thermal Exteriors, Inc. of Hebron, Maryland at costs of \$13,790 for the Mildred Johnson property and \$46,485 for the Beatrice Spence property. Ms. Bynum stated that the guidelines were revised to meet new SSLP and MHRP guidelines, but that these new mandates simply modify the location of contact information that is already provided elsewhere on the bid

form. She explained that the bid from the second low bidder did not meet the bid specifications as the details were missing and that the bid from the 3rd low bidder would substantially increase the cost to the homeowners. Commissioner Shockley stated that he is unwilling to put additional costs on the homeowners, particularly as the information being requested is already provided on the bid form, and he therefore supported waiving this technicality.

Pursuant to the request of Ms. Bynum and upon a motion by Commissioner Boggs, the Commissioners unanimously approved the revised Worcester County Housing Rehabilitation Program Guidelines, which include the following revisions: increasing grant terms to a maximum of 15 years, with awards in excess of \$25,000 to be made in the form of non-interest bearing loans; allowing contractors to request draws as needed up to 75% of the project total, with the last 25% to be held until final inspection and approval by the homeowner, inspector and program administrator; and incorporating wording from the State Special Loans Program handbook regarding Owner-Contractor disputes.

The Commissioners reviewed a Memorandum of Understanding (MOU) between the County Commissioners and the Maryland Small Business Development Center (SBDC) at Salisbury University, which includes provisions for a \$20,000 County grant to be used to provide consultant services to Worcester County business owners planning to expand and continue operations with an additional focus on how to incorporate renewable energy and/or take advantage of energy savings opportunities that may be available. Upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Church to sign the MOU as presented.

Pursuant to the request of Local Management Board (LMB) Co-Director Ed Montgomery and upon a motion by Commissioner Shockley, the Commissioners unanimously approved new by-laws for Worcester County's Initiative to Preserve Families Board, formerly known as the LMB, to comply with the recently updated Governor's Office for Children LMB Policy and Procedures Manual. In addition, the motion included extending the six-month trial period for the interim co-directors, Ed Montgomery and Pete Buesgens, who were appointed by the Commissioners to serve on a part-time basis following State funding cuts. In response to a question by Commissioner Boggs, Mr. Montgomery advised that the co-director arrangement was working thanks to the LMB staff for the outstanding job they have done in continuing operations following staffing changes and funding cuts.

Pursuant to the recommendation of Recreation and Parks Director Sharon DeMar Reilly and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved bid specifications to refurbish two basketball courts at Showell Park, which are in disrepair. Ms. Reilly advised that \$15,000 has been budgeted for the project.

Pursuant to the request of Mr. Tudor and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Church to sign the Agreement between the Maryland Department of the Environment (MDE) and the County Commissioners for supplemental inspections and monitoring of sewage sludge utilization activities in Worcester

County. Mr. Tudor advised that prior fiscal year funding from the State of \$90 to administer the program would not likely be available in FY11, but advised that it was still important to provide these services to MDE.

Mr. Tudor met with the Commissioners to advise them that Resolution No. 08-36, adopted by the Commissioners on December 16, 2008 to amend the Worcester County Comprehensive Water and Sewerage Plan to add a policy requiring nutrient removal for new septic systems in the Critical Area of the Atlantic Coastal Bays and Chesapeake Bay in Worcester County, Maryland, was disapproved by MDE. He stated that MDE found the resolution to be inconsistent with the terms of Senate Bill 554, which was enacted in the 2009 Legislative Session to require pretreatment for all new and replacement septic systems installed in the Critical Areas, whereas the County's amendment specifically excluded replacement systems. Mr. Tudor stated that though the County's amendment was somewhat more specific when discussing nitrogen reductions, Senate Bill 554 does accomplish what Worcester County set out to do in Resolution No. 08-36. Following some discussion, the Commissioners agreed to simply enforce the State law as passed rather than resubmit a revised amendment. In response to a question by Commissioner Boggs, Environmental Programs Manager Bob Mitchell advised that \$5 million of the \$8.5 million in funding to the counties for septic upgrades from the Chesapeake Bay Restoration Fund (CBRF), commonly referred to as the Flush Fee, had been rerouted to cover the State deficit. However, the County was able to secure a \$1.1 million grant last year to continue upgrading systems. In response to a question by Commissioner Busick, Mr. Mitchell confirmed that, though the County cannot offer financial assistance to the 90 individuals who have volunteered to upgrade their systems, staff is working to secure grant funding to upgrade 3 failing septic systems.

Pursuant to the recommendation of Mr. Tudor and upon a motion by Commissioner Gulyas, the Commissioners unanimously adopted Resolution No. 09-28 amending the Comprehensive Water and Sewerage Plan for Worcester County to modify the form of ownership and operation of the Ocean Landings II Water and Wastewater Treatment Plant (WWTP) to provide for the private ownership and operation of the sanitary facilities serving all improvements in the service area. Mr. Tudor stated that since the amendment is minor in nature the Commissioners are not required to hold a public hearing with respect to the application.

Pursuant to the request of Mr. Tudor, and upon a motion by Commissioner Busick, the Commissioners unanimously authorized the use of a portion of the Atlantic Coastal Bays Critical Area (ACBCA) Program Fee in Lieu payments to be expended to retrofit a stormwater management facility in Ocean Pines with enhanced water quality benefits. Mr. Tudor advised that an old failing stormwater management facility located along Pine Cone Way in Ocean Pines and located within an Intensely Developed Area (IDA) in the ACBCA has drainage problems, and staff has attempted to perform remediation on the site over the years with no success. He stated that the two adjoining property owners raised concern about flooding and water quality following heavy periods of rain and a recent noreaster. Mr. Tudor stated that Greg Wilkinson of Surveyor, Inc. will provide a plan for water quality improvements on the property at a cost of \$4,600, and the Ocean Pines Public Works Department is willing to assist with project

construction to keep total project costs below \$10,000. Commissioner Busick publicly recognized the efforts of Natural Resources Administrator Chris McCabe for working with the residents and the Ocean Pines Association to bring this project to fruition.

The Commissioners met with Mr. Tudor to discuss a request from Attorney Hugh Cropper, IV and Land Planner Bob Hand on behalf of Ocean Exchange XXXI, LLC for the establishment of approved private roads to serve a proposed 15-lot subdivision to be located on the south side of St. Martins Neck Road, just east of Caterpillar Lane in the Bishopville area. Mr. Tudor stated that the Planning Commission gave a favorable recommendation to the plans, which include the actual construction of all of the roads in the proposed subdivision to County road construction standards with the exception of modifications necessary to provide for an access gate to the proposed subdivision. Commissioner Shockley stated that the County should adopt a set of standards designed to address the provision of access gates to ensure rapid access by public safety vehicles. In response to a question by Commissioner Gulyas, Mr. Tudor stated that the developer and/or homeowners association would be required to bring the roads up to county standards in the future if they wish to include them in the Inventory of Public Roads. Commissioner Church noted that the County is under no obligation to accept such roads into the Inventory of Public Roads. Commissioner Boggs requested to have the Planning Commission represented at the meeting to explain the concerns expressed during their review of this matter, as the Planning Commission approval was not unanimous. Following some discussion and upon a motion by Commissioner Shockley, the Commissioners unanimously agreed to schedule a meeting with the applicant to give them an opportunity to provide additional information or answer questions, and further directed staff to prepare a set of proposed guidelines to address the use of access gates on private roads for their consideration at the meeting. Mr. Tudor confirmed that staff has already begun to develop such standards and would be prepared to present these recommendations for the Commissioners' consideration.

Health Officer Debbie Goeller updated the Commissioners on the impact of State budget cuts of \$1,483,994 in FY10 which resulted in a loss of 17 full time staff for the Health Department and impacted existing programs. She stated that the reduction impacts all Health Department divisions, with the exception of the dental program to serve impoverished youth. She reviewed a PowerPoint presentation outlining the cuts in positions and programs to Addictions, Case Management, Core Services Administration and Prevention. Ms. Goeller stated that the impacts of such cuts will force them to decrease the number of individuals that can be served and lead to the consolidation or elimination of services, site closures, decreased hours of operation and delays in service. She noted that funding for the Just for Girls program, an abstinence based program at Snow Hill Middle School, and Nurturing Fathers program have been eliminated altogether. In response to a question by Commissioner Busick, Ms. Goeller confirmed that Worcester County ranked second highest in the State with regard to the need for addictions services behind Baltimore City. She stated that Health Department officials have been so focused on addressing the H1N1 virus over the last several months that it has been difficult to develop realistic plans to cope with the State budget cuts; however, she favors reducing the number of clients the Health Department is able to serve rather than sacrificing the quality of services provided. Commissioner Church commended Ms. Goeller and her staff for the outstanding job

they continue to do in light of State cuts. Commissioner Shockley concurred, noting the success of the H1N1 vaccination clinics headed up by Health Department staff throughout the County.

Pursuant to the request of County Engineer Bill Bradshaw and upon a motion by Commissioner Purnell, the Commissioners unanimously approved bid specifications for the renovation of the old Berlin Senior Center to become the Worcester County Dental Clinic to serve impoverished youth. The project involves modifying the interior space to accommodate the needs of the Health Department Dental Clinic and includes demolition and rebuilding of interior walls, HVAC, new roof, new electric and plumbing. In response to a question by Commissioner Busick, Mr. Bradshaw confirmed that the County has \$500,000 in State funding for the project. He stated that once bids are returned, the County must seek final project approval from the State Board of Public Works.

Pursuant to the request of Public Works Director John Tustin and upon a motion by Commissioner Purnell, the Commissioners approved bid specifications for the purchase and installation of Bituminous Concrete for resurfacing approximately 11.56 miles of County roadways, including 1.98 miles of Seahawk Road, 6.84 miles of Nassawango Road and 2.74 miles of St. Lukes Road. Mr. Tustin advised that \$1,319,000 in American Recovery and Reinvestment Act (ARRA) funds are available to complete the resurfacing projects. In response to a question by Commissioner Shockley, Mr. Tustin advised that roads must be eligible for federal aid to receive this funding which lead to the selection of these three roads for resurfacing.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Purnell, the Commissioners unanimously awarded the low bid for the installation of 10 new wastewater effluent injection wells in the Mystic Harbour Sanitary Service Area to A.C. Schultes, Inc. of Bridgeville, Delaware at a cost of \$27,500. In response to a question by Commissioner Shockley, Mr. Tustin confirmed that these injection wells will be used to recapture lost effluent disposal capacity following recent system upgrades to repair leaks in the system.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Gulyas, the Commissioners unanimously agreed to schedule a public hearing to be held on January 5, 2010 to receive comment on the proposed replacement of the Mystic Harbour Wastewater Treatment Plant to be funded by a U.S. Department of Agriculture (USDA) low interest loan in the amount of \$5,062,000 at an interest rate 2.625% payable over 40-years and a grant in the amount of \$3,738,000 for this \$8.8 million project. The project would result in an annual charge of \$128 or a quarterly charge of \$32 per equivalent dwelling unit (EDU) in the Mystic Harbour Service Area.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Boggs, the Commissioners unanimously approved bid specifications for the installation of waterlines and associated fire hydrants within the Ocean Pines Service Area. Mr. Tustin stated that the estimated total cost for this work is approximately \$2,000,000 with project funding to be provided through a loan from a local financial institution once bids are received.

Mr. Tustin reviewed a PowerPoint presentation entitled Worcester County Showell Elementary School (SES) Utilities prior to presenting it to the Board of Education later that day. The presentation clarified the location of the proposed waterline extension along MD Rt. 589 from Ocean Pines well number 4; a new wastewater pump station; and a force main to Pump Station G. Mr. Tustin stated that \$1,300,000 has been budgeted to fund the project; and, once the work is complete, the existing septic system at SES will be abandoned. In response to a question by Commissioner Busick, Mr. Tustin advised that bid specifications are proposed to be presented to the Commissioners for consideration at their meeting on January 19, 2010. In response to a question by Commissioner Gulyas, Mr. Tustin advised that water and sewer plans call for 36 EDUs to accommodate existing as well as future increases in school population following future construction of a new elementary school on this site.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Boggs, the Commissioners unanimously authorized the closing of the County Landfill at noon on Christmas Eve to re-open the day after Christmas on Saturday, December 26, 2009.

Upon a motion by Commissioner Gulyas, the Commissioners unanimously approved the Worcester County FY10/11 Budget Schedule as presented.

The Commissioners answered questions from the press, after which they adjourned to meet again on January 5, 2010.