

Minutes of the County Commissioners of Worcester County, Maryland

January 5, 2010

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 Boggs, 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; Kim Moses, Public Information Officer; and George Bradley, Director of Human Resources. Topics discussed and actions taken included: acknowledging the hiring of Scarlett Jones as a School Crossing Guard within the Sheriff's Office; acknowledging the transfer of Doug Dods to Captain and rehire of former Chief Deputy Reggie Mason as Chief Deputy in the Sheriff's Office; appointing Richard Passwater to the Ethics Board, Ron Cascio and Vivian Nichelson Pruitt to the Board of Library Trustees; reappointing Michelle Wangel and appointing Mariah Amos, Brianna Carroll, LaShae Smith, Jenna Kramer, William Wangel and Andrew Murrell of Stephen Decatur High School (SDHS), Quashaun Willis, Tori Duncan and Victoria Danna of Snow Hill High School (SHHS) and Sharryse Piggott of Pocomoke High School to the Worcester County Youth Council; reappointing Edward S. Lee to the Worcester County's Initiative to Preserve Families Board, Joe Fehrer, Jr. to the Board of Zoning Appeals, Richard P. Mueller to the Building Code Appeals Board and Woody Shockley to the Solid Waste Advisory Committee; 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 15, 2009 meeting, as presented.

Pursuant to the request of George King, Agency Procurement Specialist for the Health Department, and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved bid specifications for the production and distribution of the 2010 Play It Safe in Ocean City Senior Guide booklets and posters.

The Commissioners reviewed a letter from Steven D. Powell, Chief of Staff for Carroll County, asking the Worcester County Commissioners to support a letter from Carroll County Government to U.S. Senator Ben Cardin regarding technical concerns with the Public Safety Employer-Employee Cooperation Act of 2009, H.R. 413, which would establish the right of emergency services staff to form collective bargaining units. In his letter, Mr. Powell explained that the legislation as written would mandate each county to provide the right of collective bargaining, even when the affected emergency services personnel are not direct county employees, as well as subject all counties to civil liability where collective bargaining is not put in place. Mr. Powell suggested that the legislation should reflect the employment and personnel realities by adding the actual employer of the emergency services personnel to those held responsible to ensure any right to collective bargaining. He further concluded that fiscal realities should be acknowledged and suggested that counties providing the primary funding for emergency services be included in any collective bargaining process to insure that any negotiations are carried out in good faith. In response to a question by Commissioner Gulyas, County Attorney Sonny Bloxom stated that while the federal government could pass this law, he does not believe it would be constitutional to impose upon the counties other than by withholding federal funds for non-compliance. Commissioner Church stated that as written this law would place a terrible burden

on the counties and could have a horrendous impact on the budget. Following some discussion and upon a motion by Commissioner Gulyas, the Commissioners voted unanimously to send a letter to Senators Ben Cardin and Barbara Mikulski as well as Congressman Frank Kratovil supporting the concerns raised by Carroll County and opposing this legislation.

Pursuant to the request of Emergency Services Director Teresa Owens and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Church to sign the annual agreement between the Worcester County Local Emergency Planning Committee (LEPC) and the Maryland Department of the Environment (MDE) regarding the Community Right-to-Know (CRTK) Fund that is awarded to the LEPC for planning and training activities currently in the amount of \$6,077.

The Commissioners met with Development Review and Permitting (DRP) Director Ed Tudor to review the draft Priority Preservation Areas (PPA) Element as an amendment to the Comprehensive Plan for Worcester County, Maryland. Mr. Tudor noted that at the last meeting the Commissioners recognized 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 (MALPF) through June 30, 2010, and once the County officially approves the PPA, the County can receive a full three-year certification for the period FY10 to FY13. Mr. Tudor commended Katherine Munson, Planner IV within DRP, who prepared the draft PPA, noting that the document has been reviewed and recommended for adoption by both the MALPF Advisory Board and the Worcester County Planning Commission. Mr. Tudor advised that this draft element will help guide the County's agricultural land preservation initiatives and provide for continued certification of the Agricultural Land Preservation Program, which allows for a retention of a greater portion of the County's Agricultural Transfer Tax collections.

In response to a question by Commissioner Shockley, Mr. Tudor clarified that while there are currently 110,847 acres of farms in Worcester County, not all of that area is classified as prime farmland. In fact, there are 107,000 acres of prime farmland in the County. In response to a question by Commissioner Gulyas, Mr. Tudor stated that the MDP had expressed concern regarding the awarding of up to six lots for development within the A-1 and A-2 Agricultural Districts in Worcester County. However, County staff had addressed this concern by explaining that the sixth lot is an incentive used to protect more farmland by requiring clustering of the new lots and also steering development away from the roadways. Following some discussion and upon a motion by Commissioner Shockley, the Commissioners voted 6-1, with Commissioner Gulyas voting in opposition, to adopt Resolution No. 10-1 amending the Comprehensive Plan for Worcester County, Maryland to include a Priority Preservation Areas Element.

Pursuant to the recommendation of Mr. Tudor and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Church to sign the Grant Agreement between the Chesapeake Bay Trust and DRP awarding DRP a grant of \$3,429 for the purchase of native plants, mulch, soil, rain barrel and supplies, weed fabric, and educational signage associated with the development of a demonstration rain garden and rain barrel at the Delmarva Discovery Center in Pocomoke City. Mr. Tudor stated that the grant award is approximately \$1,200 lower than the amount applied for; however, the project could still be completed within budget by reducing the amount of plant material to be purchased.

The Commissioners met with Public Works Director John Tustin to discuss a memo from the Town of Berlin requesting that the County allow the town to temporarily dispose of wet sludge at a County owned treatment plant. Mr. Tustin explained that the sludge drying facilities at the Berlin Wastewater Treatment Plant (WWTP) were demolished to accommodate construction of a new WWTP, and the new drying facility would not be completed for at least four months. He stated that until now the town has been working with the Town of Snow Hill for sludge disposal, but the recent rains forced Snow Hill to stop accepting waste from outside of the town. Mr. Tustin stated that build-out of the Bayside Landings subdivision has been severely curtailed by the current economic climate, and some sludge drying capacity is available at that WWTP. He noted though that this plant is significantly smaller than both the Berlin and Snow Hill WWTPs and could not sustain the proposed increase for a long period of time. Mr. Tustin concluded that Berlin pays Snow Hill \$0.08 per gallon to treat 12,000 gallons of sludge per week and would be willing to pay this same fee to The Landings Sanitary Service Area (LSSA). He advised that this fee would generate \$15,000 in revenue to the LSSA, with direct expenses including tipping fees and hauling costs totaling less

than \$5,000. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously approved the request as presented.

The Commissioners conducted a public hearing to receive comment on the cost of the proposed construction of the Mystic Harbour Wastewater Treatment Plant (WWTP) Replacement project to serve the existing customers and to have the capability to increase capacity to accommodate an ultimate total of 1,666 equivalent dwelling units (EDUs) within the Mystic Harbour Service Area (MHSA). Mr. Tustin stated that funding for this \$8.8 million project will be provided 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. He stated that the construction project would result in an annual cost of \$128 per EDU to be billed quarterly at an estimated cost of \$32 per EDU. In response to a question by Commissioner Shockley, Mr. Tustin stated that project construction could get underway in the next six months, with the new plant to have a life expectancy of 40-50 years. He advised that the existing plant, which was constructed to lesser standards and with no redundancy, lasted 35 years. In response to a question by Commissioner Gulyas, Mr. Tustin stated that the life of the existing plant was diminished by dormancy and poor maintenance prior to the County takeover of the plant. In response to a question by Commissioner Boggs, Mr. Tustin advised that funding has been allocated for aesthetics and landscaping to ensure that the plant blends in with the community.

Commissioner Church opened the floor to receive public comment.

Ellie Diegelman of Ocean City questioned who ultimately would be responsible for repaying the loan. Mr. Tustin explained that the MHSA ratepayers would shoulder the costs. He further explained that a 10% contingency had been budgeted to cover unanticipated cost increases related to construction.

Hugh Cropper, attorney for the VanVonno family who own property upon which a county-owned easement for the groundwater injection wells in the MHSA is located, asked the Commissioners to continue their commitment to long-term, land-based application, such as spray or drip irrigation, for the disposal of treated effluent, particularly as it relates to the extra capacity.

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

Commissioner Shockley questioned whether the \$200,000 annual loan repayment is based on the existing 1,000 EDUs, which only generate \$128,000 annually at \$128 per EDU, or on the increased capacity of 1,666 EDUs. Enterprise Fund Controller Jennifer Savage advised that the loan repayment is based on the full 1,666 EDUs. However, she advised that those buying in to the new plant would pay an equity contribution of at least \$5,000 per EDU the first year, and that cost would increase by \$128 annually to cover the cost of repaying the loan. Ms. Savage explained that the equity contributions would cover the remaining \$72,000 per year of the loan commitment, but confirmed that a portion of the annual \$200,000 loan repayment could come from the General Fund during the first year if needed and repaid later from the MHSA. County Attorney Sonny Bloxom advised that this last option is less likely, since there should be an influx of individuals vying for the available EDUs. Assistant Chief Administrative Officer Kelly Shannahan concurred, noting that with an equity contribution of \$5,000, only 15 new users are needed each year to cover the annual loan repayment. Chief Administrative Officer Gerald T. Mason advised that the water and wastewater EDU charge could also be adjusted up or down to cover the debt service in coming years during the annual budget adoption process. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously approved plans to move forward with the replacement of the Mystic Harbour WWTP as proposed.

The Commissioners met with Efficiency Committee members Mr. Shannahan, Public Works Director John Tustin, Maintenance Supervisor Ken Whited, Recreation and Parks Director Sharon DeMar Reilly, Natural Resources Administrator Chris McCabe, and Accounts Payable Clerk Barbara Hitch to review the Efficiency Committee Year-End Report. Mr. Shannahan reviewed the goals of the committee, which were to develop internal policies and procedures to be followed by all County departments and agencies to improve efficiency and cut the cost of government operations. He stated that following submission of the draft Efficiency Manual to the County Commissioners during FY10 budget reviews many of the committee's recommendations were implemented and resulted in a savings of more than \$700,000 during the 2009 calendar year and includes the following: consolidation of County departments (Development Review and Permitting/Comprehensive Planning/Environmental Programs); suspending special events, longevity bonuses and teacher laptops; and rebidding contracts for custodial services and fuel. Mr. Shannahan added that additional, undocumented savings have been recognized as well thanks to the

voluntary efforts of County staff to save money on purchasing and operations wherever possible and without significantly sacrificing the level of service provided to the public. He stated that the committee believes that additional efficiencies are possible in the coming year by focusing on implementing a few targeted objectives that offer the “biggest bang for the buck” and with the least adverse impact on services to the public. The targeted objectives recommended by the Efficiency Committee are as follows: revise cell phone plan and policies to reduce or eliminate usage charges for excessive text messaging, flix messaging and to prohibit customized ring tones and other unnecessary services, which could save an additional 21% or \$14,000 per year; reduce the frequency of custodial services from 5 days per week to possibly 3 or 4 days per week, which could reduce costs by as much as 15% or \$58,000 per year; and reduce vehicle fuel consumption by issuing a “Tip Sheet” to all County employees that includes practical advice on efficient practices, such as reducing or eliminating vehicle idling, proper vehicle maintenance, and reducing speed, which could cut 10% off the annual \$980,000 fuel cost, thereby saving \$98,000. Mr. Shannahan advised that further implementation of many of the remaining objectives can be achieved through issuing additional “Tip Sheets” on efficient practices with respect to the following: electrical consumption, heating and air conditioning; cell phone usage, conserving paper, conserving printer resources, reducing postage, and more. He stated that if the tip sheets are not effective, these tips could later be fashioned into formal County policies. He noted that the Efficiency Committee further recommends encouraging efficient practices among all County staff by developing a Department/Staff Efficiency Recognition Program to recognize those who go above and beyond what is expected and perhaps to introduce some friendly competition among departments.

In response to a question by Commissioner Gulyas, Ms. Hitch stated that the County’s cell phone provider, Verizon, is amenable to helping the County consolidate phone service plans and cut costs. Commissioner Gulyas suggested that if not, the County should consider soliciting proposals from other vendors, such as AT&T, for a similar plan to assure the County is getting the best price. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously adopted the above referenced targeted objectives for 2010, authorized the production and distribution of Tip Sheets to encourage further efficiencies and approved the creation of a Department/Staff Efficiency Recognition Program in the coming year. Commissioner Church thanked staff for their efforts to reduce costs and conserve County resources.

The Commissioners held a short recess.

The Commissioners met with Development Review and Permitting (DRP) Director Ed Tudor and Attorney Hugh Cropper, IV, attorney for Ocean Exchange XXXI, LLC, for a twofold purpose: to receive additional information with regard to Mr. Cropper’s request for approval of approved private roads, including an access gate, in the proposed 15-lot Aramis subdivision, located on the south side of St. Martins Neck Road, just east of Caterpillar Lane in the Bishopville area; and to review proposed guidelines prepared by DRP staff to address the use of access gates on private roads. The Commissioners met with Mr. Tudor on December 15, 2009 to consider the request to establish approved private roads and agreed to further consider the request following the adoption of approved standards for access gates. Mr. Tudor reviewed the draft Worcester County Access Gate Standards, which outlines universal standards for commercial and residential entrance gates, particularly as they pertain to access by public safety vehicles. Mr. Tudor stated that the draft had been submitted to both the Worcester County Sheriff’s Office and the Maryland State Police for review and comment and had been modified to address concerns voiced by the Department of Emergency Services and the Fire Marshal’s Office.

Mr. Cropper reviewed plans for a passive, upscale subdivision consisting of nearly 70%-80% open space on 243 contiguous acres. He stated that the subdivision would include cluster development and a community pier erected largely over uplands which would disturb only three square feet of wetlands. He stated that property deeds will restrict hunting and fishing in the community, and the access gate would restrict members of the public from launching boats and picnicking in open areas. In response to a question by Commissioner Shockley, Mr. Cropper advised that homeowners’ fees would fund road and gate maintenance. He went on to note that the Planning Commission unanimously supported the establishment of the private roads, and a majority of the members also supported the request to install the access gate. He supported the proposed standards for access gates as submitted, noting that he hoped such standards would alleviate the concerns of the Planning Commission and the County Commissioners. Commissioner Busick advised that her only concern hinged on the assurance that public safety officials would be able to get through the access gates quickly and with little inconvenience to address emergency situations.

In response to a question by Commissioner Boggs, Mr. Tudor stated that existing gated communities would not be required to retrofit their gates to meet the new standards, as in most cases the developers had worked closely with County staff to address any concerns related to access gates. Following some discussion and upon a motion by Commissioner Busick, the Commissioners voted unanimously to approve the Aramis Subdivision private roads and access gate subject to compliance with the draft Worcester County Access Gate Standards presented by staff. The Commissioners further agreed to formally adopt the Worcester County Access Gate Standards for Approved Private Roads at a future meeting.

The Commissioners met with Chris Hall, CPA, CFE of Trice Geary & Myers (TGM) Group, LLC to review the County's Comprehensive Annual Financial Report (CAFR) for FY09, which ended June 30, 2009. Mr. Hall commended County staff for being awarded a Certificate of Achievement for Excellence in Financial Reporting for the CAFR for the fiscal year ending June 30, 2008, noting that this is the highest achievement awarded to a County government for excellence in financial reporting.

Mr. Hall confirmed that FY09 revenues were in excess of expenditures by \$2,184,531 due in part to positive variances in the County's recordation and transfer tax collections. Fund balances of \$23,733,756 show a decrease of \$10,322,646 from the prior year. The decrease in the Fund balance was due to the completion of ongoing projects for which funding has already been secured and include a new State's Attorney building in Snow Hill, addition and renovation of the County Jail in Snow Hill, a new Senior Center in Berlin, and funding for an addition to the Pocomoke High School. He stated that there was a variance of \$1,933,462 in revenues from the original FY09 revenues of \$188,026,920 as compared to the actual FY09 budget of \$186,093,458. However, the County succeeded in cutting expenditures by \$4,117,993 to \$176,045,633 to address this shortfall, and a portion of the fund balance was used to pay for the capital projects outlined above. He noted that the County created the Other Post Employment Benefits (OPEB) Trust this year and transferred \$26,357,428, which the County has been setting aside for the past three years, into this trust. He reviewed the County's assessable base and noted that in past years the assessable base has always grown, but it will decline in FY09/10. Mr. Hall stated that the Commissioners should be proud of the County's strong financial management team and their ability to propose prudent adjustments in a these tough economic times. In response to a question by Commissioner Shockley regarding OPEB, Finance Officer Harold Higgins advised that over the past several years the County took a very aggressive approach to addressing the OPEB liability by funding \$26.3 million of the County's \$36.7 million liability even though the County has 25 to 30 years to fund the entire liability. Mr. Hall stated that interest earnings on the OPEB Trust Fund should be viewed over 10 to 20 years rather than a single snapshot in time. Mr. Higgins further stated that staff would be prepared to meet with the Commissioners in the near future to take an in depth look at budgetary issues, including financial projections, personnel and healthcare costs, and more for the current and coming fiscal year. Commissioner Purnell advised that the County is blessed to have a strong financial team able to look at existing and future finances and develop sound strategies to address anticipated budget shortfalls. Commissioner Gulyas concurred. Following much discussion, Commissioner Church thanked Mr. Hall and County staff for their report.

The Commissioners answered questions from the press, after which they adjourned to meet again on January 19, 2010.