

Minutes of the County Commissioners of Worcester County, Maryland

March 2, 2010

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

Following a motion by Commissioner Boggs, seconded by Commissioner Busick, 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: promoting Karen Richardson to Mosquito Control Foreman within Public Works; acknowledging the hiring of Clinton Chamberlain and Matthew Mumford as part-time Deputy Sheriffs within the Sheriff's Office; appointing Kirk Carmean to the Soil Conservation District Board of Supervisors; 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 February 16, 2010 meeting, as presented.

The Commissioners presented Worcester County Commission for Women (CFW) members Diane McGraw, Flea Daly, Meg Gerety, Sharone Grant, Eloise Henry-Gordy, Linda Skidmore and Monna Van Ess with a proclamation recognizing March as Women's History Month and encouraged citizens to recognize that women of every race, class and ethnic background have made significant contributions to the growth and strength of Worcester County and the nation. Ms. McGraw invited the Commissioners to attend the annual Women's History Month luncheon on March 24, 2010.

In a related matter, Ms. McGraw presented the Commissioners with two perpetual plaques recognizing Worcester County *Women in History* and the annual *Woman of the Year* for the Commissioners to display in the Government Center.

The Commissioners presented a commendation to Carolyn Cummins following 15 years

of service to the community as a member of the Planning Commission. The Commissioners recognized that Ms. Cummins was instrumental in developing the *Worcester County Comprehensive Plan, Zoning and Subdivision Control Article, and Design Guidelines and Standards for Commercial Uses*. Ms. Cummins thanked the Commissioners for appointing her to three separate terms on the Planning Commission, and advised that several key planning issues should be addressed as follows: develop an access management plan with the State to address traffic impacts on MD Rt. 589; improve water quality, particularly in areas developed prior to the passage of stormwater management regulations in 1995; and pursue land application of treated effluent rather than point-source discharge.

The Commissioners presented a commendation to Tourism Director Lisa Challenger for being recognized recently with the Heritage Award by the Lower Eastern Shore Heritage Council (LESHC) for her tireless promotion of heritage tourism on the Eastern Shore.

Commissioner Church presented Commissioners Boggs, Busick and Gulyas with a framed photo of the three on the cover of the April 2009 edition of *Shore Woman Magazine* with the caption *Worcester County's - The Big Three*. The piece was commissioned at the behest of Chief Administrative Officer Gerald T. Mason and will be displayed in the Government Center.

The Commissioners met with representatives from each municipality and Ocean Pines to discuss their Fiscal Year 2011 grant requests from the County.

The Commissioners met with Ocean City Mayor Rick Meehan. Mayor Meehan stated that it was good to see the County and municipalities working together, especially in these tight budget times. He stated that for FY10, recognizing the budget cuts the County was facing, the town requested grants totaling 3% less than those actually received in FY09. However, the town received FY10 grants that actually totaled 9.5% less than the prior year. He stated that the town fully understands that some of those cuts were due to the loss of pass-through funds from the State - including \$15,000 in police aid and \$116,000 in street aid - that are likely to be eliminated by the State again this year. He stated that town officials are faced with addressing the same financial challenges as the Commissioners and are in fact taking preemptive measures now to reduce their budget. Such measures include continuing the hiring freeze, offering retirement incentives to 80 eligible employees and consolidating departments, including the elimination of the Construction Division of Public Works. He asked the Commissioners to maintain the same level of funding for FY11 as the prior fiscal year. Mayor Meehan then referred the Commissioners to his letter specifically asking for \$3,853,431 in grant funds as follows: \$1,073,431 for ambulance; \$125,000 for the Ocean City Volunteer Fire Company; \$2,160,000 in un-designated funds; \$90,000 for recreation; \$270,000 for tourism; \$45,000 for the convention bureau; and \$90,000 for the Ocean City Development Corporation. Mayor Meehan stressed the need to invest in tourism, advising that last year many other resort destinations cut spending, but the town invested \$9 million to promote the resort. As a result, Ocean City was the only resort to maintain the same level of room tax for FY10 as the prior year. He challenged the Commissioners to make a solid commitment to continue to partner with the resort and the Hotel-Motel-Restaurant Association to bring visitors to Ocean City and all of Worcester County. Lastly, Mayor Meehan encouraged the Commissioners to consider running streaming videos of

their meetings on the County website for the benefit of area residents who are unable to attend their meetings.

The Commissioners met with Berlin Town Council member Troy Purnell. Mr. Purnell read a letter from Berlin Mayor Wm. Gee Williams, III advising that the Mayor and Council members are aware of the extraordinary budget constraints that Worcester County is currently facing. Mr. Purnell went on to advise that in response to declining revenues the town's FY10 budget is \$596,000 less than that of the prior year, and they anticipate a further reduction in revenues and expenditures for the upcoming year. Mr. Purnell requested the Commissioners maintain the \$400,000 grant that was awarded to the town in the prior year to make investments in economic development, infrastructure and environmental stewardship.

The Commissioners met with Snow Hill Town Council member Rebecca Bowman, who thanked the Commissioners for their support in FY10 and asked for their continued support in FY11. She stated that the town's highway user revenues had been cut by 90%, leaving staff unable to do more than fill potholes in the roads. She stated that this causes both safety and aesthetic problems for the County Seat. Furthermore, police aid had been cut by more than 65%, and the town lost a grant to help cover the cost of operating a local farmers' market. She advised that the town needs to repair deteriorating infrastructure, upgrade the Snow Hill Wastewater Treatment Plant and fund tourism. She stated that the town has begun a successful "Shop Local" campaign, with 82% of area businesses participating in the promotion. In closing, she stated that the town is mindful of the economic strain on all granting agencies and asked them to maintain the \$400,000 grant afforded to the town in FY10.

The Commissioners met with Mayor Michael McDermott. Mayor McDermott thanked the Commissioners for allowing the towns to come before them personally to request grant funding each year. He stated that the town understands that the County's revenues have been decreasing in recent months, and, therefore, made two requests with regard to the coming fiscal year. First, he requested continued categorical funding and pass-through grants as follows: \$400,000 for Economic Development; Liquor License Fees; 50% of the profits from the Pocomoke Dispensary; 15% credit against tipping fees for recycling efforts; financial corporation tax loss payment; support for the city's ambulance services based on the County formula; and fire department funding. He then asked the Commissioners to maintain level funding for the following special projects, which have regional benefit and interest: \$50,000 to cover costs associated with upkeep and storage of a third ambulance; and \$50,000 to address flooding in storm drains. Mayor McDermott further encouraged the Commissioners to support the proposed Delmarva Science and Technology Enterprise Park, Marva Theater, Delmarva Discovery Center, Sturgis One-Room African American School House and the Costen House.

The Commissioners met with Ocean Pines Association (OPA) General Manager Thomas J. Olson. Mr. Olson thanked the Commissioners for meeting with him and for including three bridges located within Ocean Pines in the Inventory of County Roads, which will make them eligible for State and Federal support. He advised that Ocean Pines contains more than 8,000 homes and 12,000 full-time residents, with the properties valued at almost 19% of the total assessed value of Worcester County. Mr. Olson stated that the OPA understands all too well the challenges faced by federal, state and local governments in today's economic environment, and he requested the County maintain police funding of \$400,000 and grant an additional \$500,000 to address flooding on Beauchamp Road. He stated that though the repair work needed to correct

this problem is outside the borders of Ocean Pines, OPA staff would provide the manpower and equipment needed to correct the problem.

On behalf of the Commissioners, Commissioner Church extended his thanks to representatives from each of the towns and Ocean Pines for meeting with them. He stated that all are facing challenging times, and that the County and towns are in the same boat together. He stated that addressing shortfalls would not be easy, but that he was confident that the towns and County would get through it by working together.

The Commissioners met with Dr. Jon Andes, Superintendent of Schools, and Board of Education (BOE) President Bob Hulburd and members Garry Mumford, Sara Thompson and Doug Dryden to review and discuss the BOE's FY11 requested budget. Mr. Hulburd thanked the Commissioners for joining with them to make Worcester County the top academic performing school system in the State. He advised that the BOE developed a budget to help sustain this high level of education, but that doing so had been difficult, and hard cuts had been made. He stated that the proposed Maintenance of Effort (MOE) budget is \$614,992 less than that of FY10 due to a decline in the student population, but reflects an increase in utilities and fixed business costs of \$1,226,510. He advised that the BOE anticipated receiving additional State funds of roughly \$640,000 in FY11. He explained that the BOE will continue to provide the youth of Worcester County the best education possible with the reduced resources provided, but that the adopted budget prevents the BOE from moving forward toward reaching certain goals and places continued programs and accreditation at risk. Lastly, Mr. Hulburd stated that the BOE had just completed a tour of the renovations taking place at Pocomoke High School (PHS), and he thanked the Commissioners for funding this project.

Dr. Andes reviewed a PowerPoint presentation entitled Worcester County Public Schools "Proven Priorities," which highlights the accomplishments of the school system overall. He advised that Worcester County continues to be first in the state in reading in grades 3, 6 and 8 and first in the state in mathematics in grades 3, 6, 7, and 8. He advised that Worcester County also has the lowest drop-out rate and second highest graduation rate in Maryland. He stated that success in these areas was due to the high priority placed upon the following criteria: recruiting, hiring and retaining high quality teachers; early learning opportunities, small class sizes, curriculum development, reading and math support teachers; extended learning opportunities; and professional development and technology. Dr. Andes advised that 92% of all high school seniors in the County have passed the High School Assessments (HSA) required to graduate, and the BOE is continuing to work with the remaining 45 students to successfully complete their HSAs as well. He advised that 82% of the 2010 graduating class plan to attend college or special training, 14% plan to enter the employment arena, and the remaining 4% plan to enter the military. He then reviewed ongoing challenges to the school system as follows: closing the achievement gap; meeting HSA graduation requirement; and continuing to meet No Child Left Behind standards. Lastly, Dr. Andes reviewed financial issues as follows: over one-third of students come from households of poverty, which is higher than the State average; Wealth Per Pupil; State Aid Per Pupil; Sources of Funding for FY10, consisting of 74.5% County Funding, 17.4% State Funding, 7.9% Federal Funding, and 0.2% Other Funding; How Funding is Used in FY10; and FY10 Cost Saving Measures that have been implemented. Dr. Andes reiterated that the MOE Budget accommodates a \$614,992 decrease in County funding, utilizes an estimated

\$640,000 increase in State aid, anticipates project increases of over \$1.2 million; and uses fund balance to offset additional reductions. He concluded that the proposed budget includes no salary increases for employees, provides no advancements in technology, contains significant reductions in textbooks and classroom supplies, includes minimal funding for facility maintenance, provides no funding for any new initiatives, and avoids employee layoffs and furloughs.

In response to a question by Commissioner Shockley regarding educating illegal aliens, Dr. Andes advised that the BOE maintains a copy of each child's birth certificate but is not permitted to track the citizenship status of students. In response to a question by Commissioner Boggs, Dr. Andes advised that several bills being considered by the Maryland General Assembly this session include provisions for revising the Wealth Formula used to determine the amount of State aid to schools, none of which are likely to help Worcester County secure additional funding. However, he agreed to review the bill questioned by Commissioner Boggs and be prepared to discuss the issue further when the BOE meets with the Commissioners on Tuesday, March 9, 2010 during their Budget Work Session.

Pursuant to the recommendation of Budget Officer Kathy Whited and upon a motion by Commissioner Purnell, the Commissioners unanimously approved the proposed Mosquito Control Program Budget for calendar year 2010, which is estimated at \$519,500 and which covers the Temporary Work (summer spray season) as follows: County funding in the amount of \$183,340 or 35%, local community funding of \$98,380 or 18.9% and State funding of \$237,780 or 45%.

Pursuant to the request of Valerie J. Mann, Community Development Consultant, and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Church to sign a letter supporting the Rackliffe House Trust in its efforts to obtain a grant from the Maryland Heritage Areas Authority for continued restoration of the Rackliffe House in Berlin.

Pursuant to the request of Development Review and Permitting Director Ed Tudor and upon a motion by Commissioner Boggs, the Commissioners unanimously authorized Commission President Church to sign a Maryland Farm and Ranch Lands Protection Program (FRPP) grant for the Atlantic Coastal Bays (ACB) Rural Legacy Area (RLA) to be used for the purchase of farmland protection easements in the RLA. Mr. Tudor stated that the County recently applied for \$960,000 in conjunction with Somerset County and the Lower Shore Land Trust (LSLT) for use in the Dividing Creek RLA, and if the County is successful in obtaining a second grant for \$900,000, those funds could be used to protect two properties and potentially others in the ACB RLA.

The Commissioners met with Mr. Tudor to review a request from Attorney Hugh Cropper on behalf of Calvin B. Taylor Bank for a five-year extension of the growth allocation awarded to the Shipyard Alley project located within the town limits of Snow Hill. Mr. Tudor reviewed the history relevant to this request, noting that on October 16, 2007 following a public hearing the Commissioners adopted Resolution 07-29 granting the requested growth allocation

with the condition that the project be substantially complete within three years from the date of approval by the Critical Area Commission. This approval was granted on December 5, 2007, and, therefore, the project must be substantially complete by December 5, 2010 or the growth allocation would become null and void. He advised that this is the first instance where an applicant has asked for an extension of time on a growth allocation. Mr. Tudor advised that the Town of Snow Hill, which was the original applicant, is not opposed to granting an extension, and though the Worcester County Planning Commission granted a favorable recommendation to the original application in 2007 without any restrictions, the request for an extension should be submitted to them for their official comment and recommendation. Mr. Tudor concluded that since the original award of the growth allocation by the County Commissioners was granted subsequent to a duly advertised public hearing, it is necessary to conduct another public hearing to consider the requested extension. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously agreed to schedule the proposed public hearing for their meeting on April 20, 2010.

The Commissioners met with Mr. Tudor to review a request from Attorney Hugh Cropper, IV to consider a sectional rezoning of a property owned by the Todd E. Burbage Irrevocable Trust, located on Public Landing Road and shown as Parcel 48 on Tax Map 65 from E-1 Estate District designation to A-1 Agricultural District, thereby relieving his client of the \$2,720 rezoning application fee. In his letter, Mr. Cropper stated that such a fee is not fair since the trust has been set up for the benefit of a one-year-old child, and the property should not have been zoned E-1 in the recent comprehensive rezoning of the County, since there was an option on the property to allow a conservation easement. Mr. Tudor stated that while he does not necessarily disagree with Mr. Cropper's proposed zoning for the property, he disagrees that the County Commissioners should consider this a sectional rezoning and pursue it at their initiative, so that the applicant does not have to pay the application fee. He explained that the request does not fit the definition of a sectional rezoning, which is intended to involve multiple properties and greater areas. Mr. Tudor further explained that correspondence requesting the property be rezoned to A-1 was not received until well after the close of the public comment period for the comprehensive rezoning. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners voted unanimously to deny the request to waive the fee and instead advised the property owner to forward the appropriate fees for the rezoning application if they wish to proceed.

Pursuant to the recommendation of Mr. Tudor and Environmental Programs Administrator Bob Mitchell and upon a motion by Commissioner Boggs, the Commissioners unanimously adopted Resolution No. 10-7 establishing a shared sanitary facility serving property owned by Worcester Retail, LLC, Ocean City Partners, Limited Partnership, and Allen & Connie, LLC as shown on Tax Map 26, Parcels 301, 302, 305, 303, and 455. The Commissioners further authorized Commission President Church to sign the U.S. Route 50 Service Area Shared Sanitary and Water Facility Agreement between the County Commissioners of Worcester County, Maryland, Worcester Retail, LLC, Ocean City Partners Limited Partnership, and Allen & Connie, LLC. Mr. Tudor noted that late last year the County Commissioners passed legislation that amended the terms of the Public Works Article to allow for certain sanitary

facilities processing less than 50,000 gallons per day (gpd) of water or wastewater treatment to be privately owned.

The Commissioners answered questions from the press, after which they adjourned for lunch with the Commission on Aging Board at the Charles and Martha Fulton Senior Center in Snow Hill.

After lunch, the Commissioners reconvened in open session.

The Commissioners met with Public Works Director John Tustin to discuss whether to rent, lease or purchase a Power Screen Warrior 1800 Mobile Screening Plant to be used for the Cell 1 reclamation project to begin in early 2010. At their February 2, 2010 meeting, the Commissioners authorized staff to move forward with project plans subject to determining any potential cost savings by purchasing rather than renting the power screen. Mr. Tustin stated that Martin McCain, Sales Representative for Aggregate Screens & Crushers, LLC of White Marsh, Maryland was the only company able to provide a demonstration of this piece of equipment at the Central Landfill where the project would take place. He stated that the Commissioners have the following options with regard to this piece of equipment: purchase it outright at the sale price of \$272,000; rent it at a cost of \$16,500 monthly for the first three months, after which the monthly rental fee would be reduced to \$8,500; or lease the equipment at a cost of \$8,152.76 per month for 36 months, after which time the machine would be available for purchase in the amount of \$1. Commissioner Cowger noted that the County will likely go on to reclaim additional cells at the central landfill after this project is complete, making it more cost effective to lease the equipment for the 36-month period and then purchase it. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners unanimously agreed to waive the standard bid process and accepted the proposal from Aggregate Screens & Crushers, LLC to lease the power screen through Terex Financial Services for 36 months at a cost of \$8,152.76 per month and to purchase the equipment for \$1 at the end of the lease term.

Upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Church to sign the Loan Resolution between the County Commissioners of Worcester County, Maryland and the United States Department of Agriculture (USDA) Authorizing and Providing for the Incurrence of Indebtedness for the Purpose of Providing a Portion of the Cost of Acquiring, Constructing, Enlarging, Improving and/or Extending Its Sewer Facility in the Mystic Harbour Service Area in the principal amount of \$5,062,000 at an interest rate of 2.625% payable over a 40-year period and a grant in an amount not to exceed \$3,738,000. These funds will be used to cover the cost of the proposed construction of the Mystic Harbour Wastewater Treatment Plant 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 Sanitary Service Area.

The Commissioners reviewed a letter from Ocean City Mayor Rick Meehan to John Griffin, Secretary of the Maryland Department of Natural Resources (DNR), written in response to Governor Martin O'Malley's plan to convert the balance of cash in the Ocean Beach

Replenishment Fund (OBRF) into future State General Obligation Bonds. In his letter, Mayor Meehan stressed the importance of continuing the beach replenishment program as well as his concern that funds contributed by both the County and City would be removed from the fund and perhaps never replaced if the Governor moves forward with this plan. Mayor Meehan concluded that interest earned by local funds in the OBRF Account accrue, as provided by State law, thereby reducing the annual cash maintenance contribution of the local jurisdictions, and in years past this interest has reduced the City's annual payments by over \$150,000. He concluded that the current proposal would eliminate all future interest earned by local funds that would have remained in the account, and based on the above concerns he urged the State to reconsider the proposal and maintain both City and County funds within the account. Chief Administrative Officer Gerald T. Mason advised that the County funds 25% of the total and would also lose local funds in the OBRF, and any future interest accrued, if the Governor's proposal is adopted. He therefore recommended sending a similar letter to the State. Following some discussion and upon a motion by Commissioner Gulyas, the Commissioners unanimously agreed to send a letter to Secretary Griffin expressing their grave concern over the proposal to convert the balance of cash in the OBRF into future State General Obligation Bonds and advising that at the very least the local funds contributed by Ocean City and Worcester County should remain in the account to continue to draw interest, which will reduce future required contributions of the local share of beach replenishment funding.

Brian Garrett, Executive Director of the Delmarva Discovery Center (DDC), met with the Commissioners to ask for a grant of \$48,000 to sustain DDC operations through June 2010 when the tourism season resumes. He advised that without the grant the DDC would be forced to lay-off all administrative and operational staff members, retain only the aquarium position, and close its doors until additional funds can be secured. Commissioner Cowger reminded the Commissioners that last year the County provided a similar grant to Diakonia, the homeless shelter in West Ocean City to allow them to continue operations; and, while he did not want to set a precedent and commit to any future funding, he supported the request. Commissioner Shockley stated that times are tight, and if the Commissioners were to grant this request, the DDC should not expect additional funding to cover operating costs in FY11 and should instead develop a balanced budget to ensure that expenses do not exceed revenue. He recommended perhaps scaling back the hours of operation to help reduce costs. In response to a question by Commissioner Boggs, Mr. Garrett advised that the DDC had only been open for a portion of the past year and had not initially been charging admission fees in order to provide exposure to the facility. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners voted unanimously to provide the DDC with a one-time grant of \$48,000 as an authorized over-expenditure.

The Commissioners reviewed a letter from Ocean City Mayor Rick Meehan to DNR Secretary Griffin regarding concerns pertaining to House Bill 468 and companion Senate Bill 282 Concerning Offshore Wind Generation - Qualified Submerged Renewable Energy Lines. In his letter, Mayor Meehan supported the State's renewable energy goals and recognized that offshore wind energy is an important part of this initiative. However, he requested the bill be amended to require that any offshore power line making landfall within the Ocean City Beach

Erosion Control District serve a facility located a minimum of 10 miles off the coast to limit their visibility from the resort hotels and boardwalk of Ocean City as well as from Assateague National Seashore. Following some discussion and upon a motion by Commissioner Gulyas, the Commissioners unanimously agreed to send a letter to the State supporting the Mayor and City Council in their efforts to have the bill amended to ensure that the development of any off-shore wind turbines off the coast of Ocean City will not be permitted within 10 miles of the coast, so as to minimize the visual impact from the beach.

The Commissioners reviewed a letter from Bob Hulburd, Board of Education (BOE) President, to the local delegation opposing Senate Bill 590 - Fairness in Negotiations Act, which would establish as an independent unit of State government a Public School Labor Relations Board (PSLRB) to assume specified duties previously held by the State BOE; require the PSLRB to hear specified controversies and disputes; and establish that specified decisions by the PSLRB are final. In his letter, Mr. Hulburd warned that passage of this bill will seriously limit the authority of an elected BOE to fulfill its constitutional obligation and statutory authority to provide an effective and efficient school system. Furthermore, it would jeopardize and place at risk the significant progress the Worcester County BOE has made and will not increase student achievement. Commissioner Boggs stated that this bill was introduced in the General Assembly in 2009, but failed. She stated that the Maryland Association of Counties (MACo) is vigorously opposing this bill. She further stated that Worcester County has always treated employees fairly by awarding across the board salary and Cost of Living Adjustments (COLA) to all county government employees and BOE staff, and if passed this legislation would likely drive a wedge between County staff and the BOE employees. Following some discussion and upon a motion by Commissioner Shockley, the Commissioners voted unanimously to send a letter to the local delegation strongly opposing Senate Bill 590 and Companion House Bill 243.

The board adjourned to meet again on March 16, 2010.