

Minutes of the County Commissioners of Worcester County, Maryland

April 6, 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 Gulyas, with Commissioner Purnell temporarily absent, 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; and Kim Moses, Public Information Officer. Topics discussed and actions taken included: nominating Carolyn Cummins to serve on the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays; considering acquisition of real property for public purposes; reviewing potential and pending litigation; receiving legal advice from counsel; and performing administrative functions.

Commissioner Purnell arrived during the morning closed session.

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 March 16, 2010 meeting, as presented.

The Commissioners presented a proclamation to Library Director Mark Thomas honoring April 11-18, 2010 as the Days of Remembrance as part of the Worcester County Library's 2010 *Big Read* initiative, which centers on Cynthia Ozick's *The Shawl*, a novel that portrays the horrors of the Holocaust. Mr. Thomas advised that the events leading up to and surrounding the holocaust were fueled by hatred and fear but enabled by ignorance and indifference. He urged all in the community to remember these events, to talk about them and to study them to guard against ignorance and indifference in the future. He then presented copies of *The Shawl* to each of the Commissioners.

The Commissioners presented a proclamation to Emergency Services Director Teresa

Owens recognizing April 12-16, 2010 as Severe Storm Awareness Week and urged all citizens to become better prepared to face emergency situations that could arise in their communities. Ms. Owens advised that winter finished up with a bang of snowfall unlike anything to hit the Eastern Shore for 30 years. She advised that forecasters are predicting an active hurricane season as well with 11-16 named storms, 6-8 hurricanes and 3-5 major hurricanes occurring during the 2010 Atlantic hurricane season from June 1 through November 30.

The Commissioners met with Health Officer Debbie Goeller to address the growing number of reported and suspected cases of rabies in Worcester County. Also in attendance were Ed Potetz, Janet Tull and Katherine Gunby of the Health Department, Chief Deputy Reggie Mason, Colonel Doug Dods, Chief Animal Control Officer Sue Rantz and Dr. James Tragle of the Whaleyville Veterinary Hospital.

Ms. Goeller advised that the County is experiencing a rabies epidemic, following a jump from a yearly average of 20 confirmed cases of rabid animals in prior years to 52 confirmed positive cases in 2009. She advised that typically incidences of rabid animals taper off during winter months. However, there have been 11 confirmed cases of rabies and six suspected cases from January 1, 2010 through March 7, 2010. Ms. Goeller reviewed a PowerPoint entitled *Rabies Situation Report*, which included the following statistics: confirmed rabid animals from 2001-2009; confirmed and suspect rabid animals for 2008 and 2009; number of rabies cases from January - March 2009 versus the same time period in 2010; 2009 rabies investigations; pet impacts from rabies exposure; costs of staff and vaccines; 2009 animal vaccination clinics; case examples of the emotional, financial and manpower burden; and a call to action. Ms. Goeller pointed out that 68% of cats and 42% of dogs exposed to rabies in 2009 were either unvaccinated or had expired vaccinations. In response to a question by Commissioner Boggs, Ms. Goeller advised that there is approximately a 30-day window from the time a raccoon contracts rabies until it succumbs to the disease. She advised that once the host animal dies, the disease dies quickly and can no longer be spread.

Ms. Goeller reviewed the success of five rabies vaccination clinics conducted in 2009, advising that 983 cats, dogs and ferrets received rabies vaccinations at a cost of \$5 per vaccination, although 21% were non-residents. In response to a question by Commissioner Boggs, Ms. Goeller advised that participation in the clinics would likely decrease, if the price was raised to cover the true cost of \$16-\$24 to administer the vaccination. The Commissioners suggested raising the cost for non-residents. Ms. Goeller stated that due to the increase in reported incidences of rabies, the Health Department plans to offer eight clinics this year.

In response to questions by the Commissioners, Ms. Tull advised that Wicomico County charges a flat rate of \$10 per vaccination to both residents and nonresidents. Ms. Goeller then reviewed several instances of rabid animal attacks on pets and humans last year, noting that five adults and three children received post rabies exposure vaccines at a cost of approximately \$1,700 to \$1,800 per person following contact with a rabid feral cat and another individual was treated after being bitten by a rabid fox.

Following much discussion and upon a motion by Commissioner Busick, the Commissioners unanimously approved Ms. Goeller's request to assemble a Rabies Advisory Committee to research and provide specific recommendations to the Commissioners regarding the following issues: increasing public awareness and education; reviewing existing Animal

Control ordinances; enhancing investigation and enforcement by Animal Control; developing a plan for control of feral and semi-feral cat populations; and planning for additional vaccination clinics. Commissioner Church urged members of the media to assist in educating the public about the dangers of rabid animals and the importance of vaccinating pets. He further urged residents not to feed wild animals, particularly feral cats.

Pursuant to the request of Mary Beth Quillen, Assistant Director of Administration within Social Services, and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Church to sign the FY2010 Rental Allowance Program Grant Application.

Finance Officer Harold Higgins reviewed a letter from John Griffin, Secretary of the Maryland Department of Natural Resources (DNR), responding to concerns raised by the Commissioners on March 2, 2010 after learning that Governor Martin O'Malley planned to convert the balance of cash in the Ocean Beach Replenishment Fund (OBRF) into future State General Obligation Bonds. The proposed plan called for funds contributed by both the County (25% of the fund balance) and Ocean City (also 25% of the fund balance) to be removed from the fund. In response to the proposal, the Commissioners informed Secretary Griffin of their grave concern over the proposal and requesting at the very least that the local funds contributed by Ocean City and Worcester County remain in the account to continue to draw interest, which will reduce future required contributions of the local share of beach replenishment funding. Mr. Higgins pointed out that Secretary Griffin has confirmed that the remaining funds contributed by both the Town of Ocean City and Worcester County after expenditures for this year's beach replenishment project are no longer in jeopardy of being diverted and will instead remain in the OBRF and continue to draw interest. The Commissioners agreed to accept the revised proposal from DNR Secretary Griffin and thank him for addressing their concerns.

The Commissioners met with Public Works Director John Tustin to review bids 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 using \$1,319,000 in American Recovery and Reinvestment Act (ARRA) funds. Upon a motion by Commissioner Gulyas, the Commissioners unanimously awarded the low bid for said purpose to American Paving Corp. of Salisbury, Maryland at a cost of \$867,582.23, contingent upon State Highway Administration (SHA) approval. Mr. Tustin advised that the SHA will withhold an additional 10% to cover any contingencies, construction inspections and material testing costs, resulting in an additional cost of \$86,758 for a total project cost of \$954,340.00.

Mr. Tustin recommended using the remaining ARRA funds of \$331,509 to resurface Old Furnace Road beginning at the joint, 3,400 feet northeast of Whitesburg Road intersection for 18,835 feet (3.57 miles), with all work to be completed within the existing right-of-way. Upon a motion by Commissioner Busick, the Commissioners unanimously approved the proposed resurfacing project, which qualifies for ARRA funding, and awarded this project to American Paving contingent upon SHA approval.

Mr. Tustin recommended approval of the proposed cost sharing agreement with SHA. In

response to a question by Commissioner Shockley, SHA District Engineer Donnie Drewer advised that the 10% fee, which in this case is expected to be only 9.7%, covers only actual costs incurred by the SHA for contingencies, such as construction inspections and material testing costs. Upon a motion by Commissioner Busick, the Commissioners unanimously authorized Commission President Church to sign the Maryland Department of Transportation (MDOT) SHA Cost Sharing Agreement.

The Commissioners met with Mr. Tustin to review bid specifications for the purchase of a 2010 twelve-passenger, two wheelchair bus with the option for a third wheel chair position for the Worcester County Health Department using grant funds of \$50,000. In response to a question by Commissioner Shockley, Mr. Tustin advised that the cost of a diesel engine may exceed the available grant funds. Upon a motion by Commissioner Shockley, the Commissioners unanimously approved gasoline and optional diesel bid specifications for the purchase of the proposed bus.

The Commissioners met with Mr. Tudor to discuss a request from Attorney Raymond D. Coates, Jr. and Land Planner Frank G. Lynch, Jr. on behalf of West Harbor Village advising that the placement of road monuments and lot corners within the above referenced subdivision have been installed in accordance with the requirements of Section ZS 2-503 of the Worcester County Code and requiring that the County accept these roads into the Public Roads Inventory. Mr. Tustin advised that the following three roads within the West Harbor Village subdivision have been inspected by the Roads Division of Public Works: Harbor Master Boulevard - 0.23 mile; Bay Buoy Court - 0.04 mile; and Sea Buoy Court - 0.09 mile. Following some discussion and upon a motion by Commissioner Purnell, the Commissioners unanimously agreed to schedule a public hearing for acceptance of the above-referenced roads into the Inventory of Public Roads of Worcester County to be held on May 18, 2010.

Pursuant to the request of Mr. Tudor and upon a motion by Commissioner Busick, the Commissioners unanimously approved the filing of FY2011 and FY2012 Bay Restoration Septic Grant applications in the amount of \$700,000 each year for the upgrade of Septic/On-Site Sewage Disposal Systems with Best Available Technology (BAT) for nitrogen removal. Environmental Programs Administrator Bob Mitchell explained that the State awarded Worcester County \$1 million during the last grant cycle. However, funding for this program has been cut substantially, and 22 Maryland jurisdictions are competing for only \$8.5 million in funding. He advised that if awarded the grant, the County will prioritize grant recipients based on the following criteria: failing septic systems or holding tanks in the Critical Areas; failing septic tanks or holding tanks not in the Critical Areas; non-failing septic systems in the Critical Area; and non-failing septic systems not in the Critical Area. In response to a question by Commissioner Busick, Mr. Mitchell advised that prior grant funds were used to upgrade approximately 100 septic systems located within Worcester County.

The Commissioners met with Mr. Tudor to consider a request from members of the Board of License Commissioners (BLC) to change their typical meeting day from the third Thursday to the third Wednesday of each month. Mr. Tudor explained that BLC member Charles Nichols has a persistent conflict with the Thursday meeting, and the other BLC members and

County staff would like to accommodate his request to schedule the meetings on Wednesday. Mr. Tudor advised that there are no statutory, procedural or other requirements for the BLC to meet on a particular day of the week. Upon a motion by Commissioner Purnell, the Commissioners unanimously approved the request as presented.

The Commissioners met with Natural Resources Administrator Chris McCabe to review and discuss the Maryland Department of Natural Resources (DNR) Coastal Bays Proposed Aquaculture Leasing Map, which establishes enterprise zones within the Chincoteague Bay for the purpose of leasing areas suitable for harvesting shellfish. Mr. McCabe advised that approximately 530 acres located one-third mile off the coast of South Point are proposed to be available for leasing, and during a public hearing on April 1, 2010 residents of South Point voiced great concern about the proposed lease. He advised that the original proposal called for the leasing of about 1,000 acres, but DNR Secretary John R. Griffin had reduced that amount by half in response to their concerns. Commissioner Church stated his appreciation for Secretary Griffin's concessions, but advised that many other issues must still be addressed, including increased jet ski and boating hazards created by the addition of aquaculture poles; and legal responsibility for the cleanup of aquaculture lines, equipment and other debris that may wash ashore. Following some discussion, the Commissioners agreed to contact Secretary Griffin, thanking him for working to address the concerns of the South Point residents, and advising that they look forward to continuing to work with DNR to resolve several major concerns that still need to be addressed.

The Commissioners recessed for 10 minutes.

The Commissioners met with Project Manager Jamaica Arnold, Assistant Division Chief Nicole Washington, Project Engineer Kenya Lucas, IT Analyst Kevin Law and District Engineer Donnie Drewer of the Maryland Department of Transportation (MDOT) State Highway Administration (SHA) and US Rt. 50 Crossing Study consultant Scott Holcomb to review the alternatives under consideration for the replacement of the U.S. Route 50 crossing into Ocean City. Known as the Harry W. Kelley Memorial Bridge, this crossing is said to have a remaining life span of approximately 15-20 years and upward costs of \$30 million for continued maintenance. Ms. Arnold noted that previously both SHA and the Town of Ocean City preferred Alternative 4, a Fixed Span Bridge with a 45' clearance that would meet in Ocean City between Philadelphia Avenue and Baltimore Avenue, while the Commissioners preferred Alternative 5A, a north parallel bridge span with 30' clearance. She stated that the SHA has modified the preferred alternatives in the hope of reaching a compromise that will be acceptable to all parties involved.

Mr. Holcomb reviewed a computer simulation of the US Rt. 50 Crossing Alternatives Under Consideration as follows: Alternative 1 - no major improvements; Alternative 4 Modified (Signal Option) with a fixed span bridge of 45 feet of clearance over the water with four total lanes carrying the inbound and outbound traffic, requiring longer ramps into Ocean City than the alternative with less clearance due to the height needed for the fixed span; Alternative 5A - north parallel bridge just north of US Rt. 50, with a 30-foot clearance instead of the existing 18 feet to allow 70% of existing boat traffic to clear the bridge and another 30% to require passage through

the draw span; Alternative 5B - north parallel fixed span bridge - with a clearance of 45 feet and tying in to US Rt. 50 just west of the existing bridge on the west side of the bay; and Alternative 5C - low level north parallel draw bridge just north of US Rt. 50 (following the horizontal alignment of Alternative 5A but with a draw span of only 18 feet rather than 30 feet) that ties back into Division Street east of the bay. Ms. Arnold advised that Alternative 5C was created to offer a compromise to concerns raised by the Commissioners.

Commissioner Church noted that with a price tag of \$400 million for 4 modified, as preferred by the Town of Ocean City and SHA, continues to be the most costly and will cause the greatest impact on resort properties. In response to a question by Commissioner Church regarding project funding, Mr. Drewer advised that the SHA would continue to fund bridge maintenance over the expected 20-30-year remaining life span, and at the same time work to secure funding for a new bridge. In response to a question by Commissioner Shockley, Ms. Arnold stated that the cost of the 18' high bridge and 30' high bridge are nearly identical, although the 30' bridge would accommodate 75% of current boat traffic without raising the draw span, while the 18' bridge would only accommodate about 25% of boat traffic. Commissioner Boggs noted that the computer simulations clearly demonstrate that Alternative 4 modified and 5A would change the character of Ocean City. Commissioner Church commented that the general consensus among the Commissioners is that their input is largely pointless, as SHA Administrator Neil Pedersen made it clear last October that he will make the final decision on the ultimate design of the bridge. However, he appreciated SHA officials taking time to meet with them. Ms. Arnold explained that Mr. Pedersen values the input from the Commissioners in making his decision. Commissioner Gulyas stated that she appreciated that SHA officials are showing the 3-D simulation of Alternatives 4 modified and 5A, which presents shocking visuals of the high bridge walls to be constructed along Philadelphia Avenue. In response to a question by Commissioner Church, Mr. Drewer stated that even though construction could be 15-25 years away, it is important for an alternative to be chosen now, so the town can begin long range redevelopment plans around the new bridge. He further explained that Mr. Pedersen would like to achieve a consensus among the County, City and State regarding the ultimate design of the Rt. 50 Bridge. Following much discussion, the Commissioners thanked MDOT and SHA officials for meeting with them.

The Commissioners answered questions from the press, after which they adjourned to meet again on April 20, 2010.