

Minutes of the County Commissioners of Worcester County, Maryland

June 1, 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 Gulyas, seconded by Commissioner Boggs, the Commissioners unanimously voted to meet in closed session at 10:00 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 Mike Mitchell to Solid Waste Manager and Ron Taylor to Recycle Manager within the Solid Waste Division of Public Works upon the retirement of George Dix, Solid Waste Superintendent; approving the hiring of a Criminal Assignment Commissioner for Circuit Court to fill an upcoming vacancy and a temporary Contractual Employee for the Elections Office to assist with the upcoming election; reappointing Nancy Howard to the Social Services Board; 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 May 18, 2010 meeting as well as their May 11, 2010 and May 25, 2010 budget work sessions, as presented.

Pursuant to the recommendation of Housing Program Administrator Jo Ellen Bynum, and upon a motion by Commissioner Gulyas, the Commissioners unanimously awarded the low bid for the rehabilitation of an existing single-family home in the Stockton area to Shoreman Construction of Delmar, Maryland at a cost of \$9,225.

Pursuant to the recommendation of Public Works Director John Tustin and upon a motion by Commissioner Gulyas, the Commissioners unanimously accepted two proposals from George, Miles and Buhr (GMB) of Salisbury, Maryland for the Showell Elementary School (SES) utility project as follows: \$37,500 for Contract Administrative services to include shop

drawing review, conducting monthly construction progress meetings, review of change order requests, response to requests for information, and preparation of record drawings and other administrative services; and \$62,180 for daily on-site inspection of the construction activities as they occur. Mr. Tustin advised that GMB's daily presence may not be needed for a full 22 weeks, and payment would be based on hourly rates not to exceed the total quoted cost of \$62,180, plus up to \$200 for reimbursable expenses. In response to a question by Commissioner Busick, Mr. Tustin advised that the project is set to begin July 1, 2010 with the extension of water to SES to be complete in fall 2010 and the installation of sewer to be complete by spring 2011.

The Commissioners met with Development Review and Permitting Director Ed Tudor to review the proposed fee schedule for the mowing of tall grass deemed a nuisance by the County. Mr. Tudor explained that an administrative fee of \$150 was proposed along with mowing costs of \$125 for the first one quarter acre, plus \$75 for each additional acre or portion thereof. He advised that staff developed the proposed fees based on the estimated administrative and equipment costs for such services. In response to a question by Commissioner Shockley, Mr. Tudor advised that most of the lots to be cut will likely be very small. He stated that cutting such lots would be more time consuming, since the areas would have to be cut by push mowers instead of tractors or other large pieces of equipment that are able to cut large areas of land rapidly. Following some discussion and upon a motion by Commissioner Gulyas, the Commissioners voted 6-1, with Commissioner Cowger voting in opposition, to adopt Resolution No. 10-19 establishing fees for the mowing of tall grass declared to constitute a public nuisance in Worcester County, Maryland, with the fee structure to be reviewed in October 2010 based on experience over the summer.

The Commissioners met with Mr. Tudor to review the proposed fee schedule for Stormwater Management Plan Reviews. Mr. Tudor advised that the proposed fee schedule was drafted to reflect increased administrative costs resulting from recent changes in State law and reflected in Bill 10-2 (Natural Resources - Stormwater Management), which was adopted on May 18, 2010. He stated that the new State stormwater regulations increase administrative costs by requiring the submission of three separate stormwater management plans as follows: concept plan; site development plan; and final stormwater management plan. He advised that currently only one plan is required. Proposed revisions to the fees reflect a modest increase of roughly 50% above current fees. In response to a question by Commissioner Shockley, Stormwater Plan Reviewer Bobby Shockley advised that the fee for single-family homes remains at \$50.00, and the fee for agricultural structures constitutes a new flat fee of \$150.00, since such structures were not previously regulated. He stated that homes in single-family subdivisions are already a part of master stormwater management plans and require very little review time from County staff. However, greater time is required to review large homes on rural lots that could negatively affect neighboring properties and tax ditches. Following some discussion and upon a motion by Commissioner Busick, the Commissioners voted unanimously to adopt Resolution No. 10-20 amending fees for Stormwater Management Plan Review.

Pursuant to the request of Mr. Tudor and upon a motion by Commissioner Busick, the

Commissioners unanimously authorized Commission President Church to sign the Cooperative Agreement between the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) on behalf of the Commodity Credit Corporation and the County Commissioners of Worcester County, Maryland for the Farm and Ranch Lands Protection Program for a grant of \$1,150,000 for land preservation matching funds in the Coastal Bays Rural Legacy Area.

Commander John Keegan of the United States Navy at Wallops Island, Virginia, presented information to the Commissioners regarding the Surface Combat Systems Center (SCSC) at Wallops Island, advising that the mission of the SCSC is to provide live integrated warfare systems in a maritime environment for fleet operations, testing, evaluation, training, research and deployment. He presented a PowerPoint outlining SCSC as follows: the team at Wallops Island, economic impact, community service, future programs, and expected length of the SCSC program. Commissioner Busick noted that businesses in Pocomoke City and other areas of Worcester County have benefitted greatly from the activities at Wallops Island. Following some discussion, Commissioner Church thanked Commander Keegan for meeting with them and recognized the steps taken by those at Wallops to ensure national security.

Chief Administrative Officer Gerald T. Mason reviewed the final proposed FY2010/2011 Operating Budget for Worcester County, which calls for expenditures of \$163,205,811, which reflects a decrease of \$10.4 million or 6.0% less from the FY10 budget due to a shortfall in revenues and State budget cuts in appropriations for the coming fiscal year. The real property tax rate will remain unchanged at \$0.70 per \$100 of assessed value as will the local income tax rate of 1.25%. The Homestead Credit cap remains unchanged at 3%, which equates to a revenue reduction of \$7,209,711 to be passed on to the County's qualified principal resident homeowners effective July 1, 2010. Mr. Mason further stated that reductions are included for Income Tax revenues, which are anticipated to decline \$2.2 million over the prior budget. State budget cuts have decreased Highway User Tax revenue by \$813,586 over the prior year.

Commissioner Church stated that in the face of continuing revenue declines, the Commissioners have stood firm in their agreement to maintain the existing real property tax rate of 70¢ per \$100 of assessed value in fiscal year 2011. Rather than raise taxes, the Commissioners strove to develop and approve a combination of revenue and expenditure adjustments to balance the fiscal year 2011 Budget. He advised that County and Board of Education employees will not receive any increase in salaries or longevity bonuses; however the Commissioners were able to avoid furloughs and layoffs. An early retirement incentive program is being offered for the second year in a row to continue to reduce personnel expenses. Commissioner Church thanked County departments and agencies for cutting their operating costs by 10%, and in some cases even more. He concluded that this fiscally conservative budget proposes no new spending, but maintains funding for valuable public services residents can count on, such as public safety, education, infrastructure and existing social service programs.

Commissioner Shockley stated that the current tax rate was in place in 1998, was raised to \$0.73 in 2001 but lowered back to \$0.70 in 2005, and has generally remained steady over a period of 12 years. He stated that next year is going to be tougher than this one, and encouraged everyone to continue to work together to be part of the solution. He suggested that the BOE

needs to look into potential savings and/or cuts in next year's budget. He concluded that the FY11 budget includes many cuts, but that it is one he can support.

Commissioner Boggs stated that she is proud to vote for the FY11 budget, which maintains the existing property tax rate and local income tax rate and provides a Maintenance of Effort (MOE) budget for the Board of Education (BOE), which after accounting for State and other funding resulted in increased funds totaling \$696,579 for the BOE's use. She paid special thanks to County and BOE employees who have foregone raises and Cost of Living Adjustments (COLAs) for two consecutive years, a sacrifice that has helped the Commissioners present a balanced budget.

Commissioner Purnell stated his endorsement of the FY11 budget. He advised that the County has come through prior economic struggles with flying colors, and expects them to continue to do so. He thanked staff for their hard work and admonished that program cuts and other tough decisions were made to protect the taxpayers. He stated that no one can predict the future, but that the Commissioners will continue keep the best interests of area residents at heart.

Commissioner Busick stated that she would support the FY11 budget, noting that economic recovery would not be rapid, and everyone must think outside the box to make difficult financial decisions in the future.

Commissioner Gulyas stated her wholehearted support for the budget and thanked staff for stepping up to the plate to make the necessary cuts to balance the budget. She also thanked the BOE for supporting a MOE budget.

Commissioner Cowger stated that it is a shame the County does not run its operations like a business. He stated that he had wrestled with the budget, taken part in a number of involved discussions regarding County finances and recognized that staff has done an outstanding job of providing the Commissioners with the information needed to develop the FY11 budget. However, he expressed concern that the next few years will continue to bring further economic difficulties, and this budget does not do enough to meet the future challenges the County will need to address. For that reason, he explained that he could not support the FY11 budget.

Commissioner Church concluded that he would be remiss not to recognize the hard work and efforts of his fellow Commissioners in working through their differences and making sacrifices to present a balanced budget. He stated that, even though they do not always see eye to eye on budgetary matters, each of the Commissioners has the best interests of the County at heart.

Upon a motion by Commissioner Gulyas, the Commissioners voted 6-1, with Commissioner Cowger voting in opposition to adopt Resolution No. 10-21 Adopting Expense Budgets and Establishing Tax Rates for Fiscal Year 2010/2011.

The Commissioners met with Mr. Tudor to discuss updating County building code standards. Mr. Tudor recapped the existing standards, advising that the Building Official and Code Administrators (BOCA) Building Code and Council of American Building Officials (CABO) One and Two Family Dwelling Code, which were adopted by the County in 1998 and 1991, respectively, no longer exist and have been replaced by the International Building Code (IBC) and the International Residential Building Code (IRC). He stated that while local law has for many years referred to the codes as indicated above, almost all of the County's applications

have been submitted under the design parameters of the IBC for several years, as permitted under the provisions of the alternative methods and materials section of the original BOCA and CABO Codes.

Mr. Tudor advised that one of the primary issue of contention in the new version of the IRC is a provision requiring that all new residential structures subject to the County Code and built after January 1, 2011 are required to be installed with residential fire sprinkler systems. In response to a question by Commissioner Shockley, Mr. Tudor advised that this is an extremely contentious issue with those who are both for and against the provision presenting a number of valid points regarding whether sprinkler requirement should be addressed in the local law. He noted, however, that State law permits jurisdictions to propose local amendments based on conditions peculiar to their community, such as a lack of public water, and some areas are proposing to “opt out” of the provision requiring the residential fire sprinkler systems. Mr. Tudor stated that, while he does not necessarily agree with opting out of the requirement, a final decision can be made at a later date. Therefore, he recommended the Commissioners give this matter further consideration and receive public input before deciding. He advised that there are a number of issues, however, that should be addressed now to align local and State laws, and he requested authorization to draft a text amendment that would revise Subtitle II of the Building Regulations Article to provide that in accordance with State law, the Maryland Building Performance Standards (MBPS) Act applies to all construction in Worcester County, subject to any local amendments as approved by the County Commissioners by resolution. As such, he recommended removing the separate and sometimes more stringent sprinkler requirements found in local construction standards with regard to multi-family construction and buildings and certain use groups over 12,000 square feet. He further requested authorization to prepare a resolution declaring the Commissioners’ intent to amend the MBPS to reflect the local climatic considerations and other local amendments previously enforced with respect to the CABO and BOCA Codes, with specific regard to such things as snow load, frost depth, termite activity design, winter design temperatures and residential footing and reinforcement requirements. In response to a question by Commissioner Boggs, Mr. Tudor stated that there are sprinkler systems on the market that are designed for use in homes served by private wells. Following some discussion and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized staff to prepare the proposed text amendment and resolution for their consideration at a future meeting.

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

Commissioner Busick left the meeting.

After lunch, the Commissioners reconvened in open session.

The Commissioners held a public hearing to receive comments on the proposed FY10/11 Solid Waste Enterprise Fund Operating Budget. Enterprise Fund Controller Jennifer Savage reviewed operational issues, including recycling efforts and plans to begin the reclamation of Cell 1. She then summarized the proposed budget, which maintains the current solid waste

tipping fee of \$65 per ton for municipal waste and maintains the fee of \$75 per ton for construction and demolition debris, with homeowner transfer station permits to remain at \$50.

In response to questions by Commissioner Shockley, Recycling Manager Ron Taylor advised that due to State cuts, the County will not be able to conduct the annual Citizens Scrap Tire Drop Off Day in FY11. Ms. Savage advised that salary costs have been reduced at the Landfill by eliminating four positions that were vacated due to retirements. She also advised that Landfill employees are being assigned for the mining of Cell 1 to further reduce project costs. In response to questions by Commissioner Cowger regarding the use of \$1.5 million in reserve funds to balance the FY11 Solid Waste Enterprise Fund Operating Budget, Ms. Savage advised that these funds are designated to cover the cost of mining Cell 1, with an additional cost of approximately \$2 million to renovate and reline the Cell. She advised that in the long run the cost to mine Cell 1 is far less than the cost of constructing a new cell at an approximate cost of \$9 million. Commissioner Cowger questioned why the County had not considered reducing tipping fee costs to keep the Town of Ocean City from contracting with a private hauler to have the town's solid waste picked up and hauled out of state for a period of three years, which resulted in a decrease of \$1.5 million in revenues to the Landfill. Public Works Director John Tustin advised that staff looked at the possibility of lowering the tipping fees to each of the towns, but could not do so and continue to cover the cost of operations at the Landfill.

Commissioner Church opened the floor to receive public comment.

Ellie Diegelman of Ocean City expressed her appreciation for the lively discussion related to operating costs at the Landfill, since these costs will affect residents in the coming year.

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

The Commissioners agreed to further discuss this matter and adopt the Solid Waste Enterprise Fund Budget by resolution at their next meeting on June 15, 2010.

The Commissioners held a public hearing on the proposed FY10/11 operating budgets, assessments, user charges and other charges for each of the 11 sanitary service areas and sub-areas operated by the Worcester County Department of Public Works, Water & Wastewater Division. Ms. Savage advised that the following three projects are currently being undertaken by the County: construction of the Newark Water Tower, construction of a new Mystic Harbour Wastewater Treatment Plant, and completion of the Ocean Pines Fire Hydrant Project. She then reviewed the County's various service areas. She stated that proposed increases to fees to cover projected expenses are as follows: The Landings would increase from \$150 to \$175 per quarter base rate, and from \$150 to \$175 per quarter accessibility charge for unimproved lots; Mystic Harbour would increase by \$25 per quarter for a sewer debt service charge; Newark would increase in quarterly debt service charge from \$32 to \$47; and Ocean Pines would increase in quarterly debt service charge from \$47 to \$54; In addition to user fees, assessments will be levied in the Newark, Ocean Pines, South Point Village, Sunset Village, Snug Harbor, Oyster Harbor, Mystic Harbour and West Ocean City service areas or sub-areas to make debt payments.

In response to a question by Commissioner Gulyas, Ms. Savage advised that there is not enough additional capacity at The Landings to serve all of Snug Harbor.

Commissioner Church opened the floor to receive public comment.

Ellie Diegelman of Ocean City expressed grave concern that rising costs in the service

areas would ultimately be passed on to the taxpayers of Worcester County. Ms. Savage advised that only the ratepayers in each of the service areas are responsible for repaying debt service and all other operational expenses of their service area. Commissioner Church explained that advisory boards are set up in many of the service areas to review needed projects, assist in developing budgets and inform area residents of needs in the service area. He stated that before a large project is even addressed at the County level, area residents know how such construction will impact them financially. Commissioner Church encouraged Ms. Diegelman to contact County staff in advance of such hearings to address any questions, ascertain the facts and avoid coming to the hearings with self-contrived misinformation in the future.

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

Following some discussion the Commissioners conceptually approved the proposed rates and charges and agreed to adopt the formal resolution at their next meeting on June 15, 2010.

Chief Administrative Officer Gerald T. Mason apprised the Commissioners of an Area Mail Processing (AMP) feasibility study conducted by the U.S. Postal Service (USPS) to determine if efficiency could be increased by consolidating mail processing operations currently performed at the Easton, Maryland Processing and Distribution Facility (PDF) with those performed at the Baltimore Processing and Distribution Center (PDC). He stated that the study apparently supports the proposed consolidation, and the USPS will conduct a public meeting in Easton, Maryland on June 15, 2010 to allow members of the community to ask questions and provide feedback. The Commissioners agreed that closing the Easton PDF would unduly effect mail service on the Eastern Shore and create job loss. Following some discussion and upon a motion by Commissioner Gulyas, the Commissioners unanimously agreed to send a letter to the USPS opposing the consolidation and closure of the Processing and Distribution Facility in Easton, to copy the letter to our U.S. Senators and Congressman and to make comments at the hearing.

The Commissioners answered questions from the press, after which the board adjourned to meet again on June 15, 2010.