

Minutes of the County Commissioners of Worcester County, Maryland

June 15, 2010

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

Following a motion by Commissioner Gulyas, seconded by Commissioner Shockley, with Commissioner Cowger absent, the Commissioners voted unanimously to meet in closed session at 9:30 a.m. in the Commissioners' Conference Room to discuss legal and personnel matters permitted under the provisions of Section 10-508(a)(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: reviewing potential and pending litigation; receiving legal advice from counsel; and performing administrative functions.

Commissioner Cowger was absent from the meeting.

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 June 1, 2010 meeting, as amended.

Pursuant to the request of Vincent E. Tolbert, CPA, Chief Financial Officer for the Board of Education (BOE), and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Church to sign the BOE's Annual Budget Certification Statement, which the BOE is required to submit to the Maryland State BOE detailing County funds appropriated for FY11, which include \$71,339,072 for BOE expenses and \$9,184,403 for Debt Service for BOE projects.

Pursuant to the request of Mr. Tolbert and upon a motion by Commissioner Gulyas, the Commissioners unanimously approved the County Appropriation Transmittal Schedule for Fiscal Year 2011 for the BOE totaling \$71,339,072.

The Commissioners met with Chief Administrative Officer Gerald T. Mason to review a

Memorandum of Understanding between the County and Maryland State Department of Assessment and Taxation (SDAT) outlining the responsibilities of both parties with regard to County employee Mary Denton, a Real Property Research Aide working in the Worcester County Assessment Office. Mr. Mason advised that the contract has been amended to include the provision that when State government or the local Assessment Office in Worcester County is closed and the County government is operating, the County employee will have to make alternate arrangements for a workstation within County offices during that time. In response to a question by Commissioner Boggs, Mr. Mason advised that this contractual position will be needed for many more years to come; however, it more than pays for itself by identifying and correcting fraudulent homestead credits claimed by non-resident property owners as well as boat slips for which taxes are due.

Pursuant to the request of Finance Officer Harold Higgins and upon a motion by Commissioner Purnell, the Commissioners unanimously approved the County transfer of \$12,320,449 to the Other Post Employment Benefits (OPEB) Trust.

Pursuant to the recommendation of Enterprise Fund Controller Jennifer Savage and upon a motion by Commissioner Boggs, the Commissioners unanimously authorized Commissioner Church to sign the United States Department of Agriculture (USDA) Certification Under section 1511 of the American Recovery and Reinvestment Act (ARRA) for funds of \$8.8 million to construct a new Mystic Harbour Wastewater Treatment Plant (MHWWTWP). This funding consists of \$5,062,000 for loan funding and \$3,738,000 for grant funding.

Upon a motion by Commissioner Boggs, the Commissioners unanimously adopted Resolution No. 10-22, adopting the Solid Waste Enterprise Fund Budget and Fees for July 1, 2010 through June 30, 2011 as conceptually approved after their public hearing on June 1, 2010 and 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. Mr. Mason explained that the budget had been reduced by \$146,646 to \$5,368,566 to reflect the reduced cost of leachate disposal at The Landings Wastewater Treatment Plant as well as minor modifications for staff retirement, benefits and elimination of take home vehicle privileges.

Upon a motion by Commissioner Purnell, the Commissioners unanimously adopted Resolution No. 10-23, adopting Sanitary Service Area Budgets, Assessments and Charges and Establishing Classifications for July 1, 2010 through June 30, 2011 as conceptually approved after their public hearing on June 1, 2010, with the following exceptions: the South Ocean Pines Sub-Area user rates for debt service have been reduced from \$144 to \$120 per EDU as we are nearing the end of the payment schedule; and Equivalent Dwelling Unit (EDU) assignments have been revised and reduced at owner's requests on several accounts and excess EDUs have been removed from the Ocean Pines Manklin, LLC account in accordance with the Water & Sewer Agreement dated October 1, 1994 which specifies that unused EDUs revert to the Service Area.

Pursuant to the request of Public Works Director John Tustin and upon a motion by

Commissioner Shockley, the Commissioners unanimously approved bid specifications for the purchase/lease of two new current model landfill track loaders to be utilized by the Solid Waste Division. Mr. Tustin advised that one loader will be dedicated to the mining operation while the other will be used in the daily operations of working landfill cells. Funds to purchase/lease this equipment were approved in the FY10/11 operating budget.

Pursuant to the request of Development Review and Permitting Director Ed Tudor and upon a motion by Commissioner Purnell, the Commissioners unanimously adopted Resolution No. 10-24 establishing a shared sanitary facility serving property owned by Island Resort Park, Inc., as shown on Tax Map 40, Parcel 93 in Worcester County, Maryland as well as approving a Shared Sanitary Facility Agreement and an Operations Agreement for this campground. Mr. Tudor advised that while the campground owner has worked to convert the campground to a cooperative form of ownership, the Maryland Department of the Environment (MDE) had determined that cooperatives such as this constitute shared facilities that now must also have established a governmental entity as the “controlling authority.” Mr. Tudor stated that other than officially designating the County as the controlling authority, the situation is no different than the policy in place within the County for a number of years with respect to shared facilities. He concluded that the County has always had the ability within the County Code and prior shared facility agreements and resolutions to assume control of any such facility in the event of improper maintenance or a failure of the system, therefore, this issue has been resolved.

Pursuant to the request of Mr. Tudor and upon a motion by Commissioner Boggs, the Commissioners unanimously adopted Resolution No. 10-25 exempting the Mystic Harbour Wastewater Treatment Plant construction and operation and associated sewerage collection systems and effluent disposal systems as a County project under the Worcester County Zoning Ordinance. Mr. Tudor advised that the Planning Commission provided a favorable recommendation for exempting this project from the terms of the Zoning and Subdivision Control Article.

Pursuant to the request of Mr. Tudor and upon a motion by Commissioner Shockley, the Commissioners unanimously authorized Commission President Church to sign the Sewage Sludge Delegation Agreement Renewal between the Maryland Department of the Environment (MDE) and the County Commissioners for a period of five years through June 30, 2015. Mr. Tudor reviewed the agreement, stating that MDE agrees to transfer extremely limited funding in an amount not to exceed \$1,000 to the County to complete inspections pertaining to sewage sludge utilization permits. In response to a question by Commissioner Shockley, Environmental Programs Administrator Bob Mitchell advised that there is only one site permitted to receive out-of-county sewage sludge for land based application, and said property is located in the Pocomoke Forest near the home of Chief Administrative Officer Gerald T. Mason.

The Commissioners met with Mr. Tudor to discuss a request from the Town of Berlin to waive the 20-day local government comment period to expedite the Town’s application for a Sewage Sludge Utilization Permit from MDE to transport sludge. Mr. Tudor explained that the Town of Berlin is currently working on renovations to both their existing spray irrigation

facilities as well as their wastewater treatment plant (WWTP), and with prior County approval is set to transfer wastewater sludge to The Landings WWTP for drying and disposal on an as needed basis during the upgrade process. Following some discussion and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Church to sign a letter to MDE supporting the proposed permit and waiving the comment period as requested.

Pursuant to the request of Mr. Tudor and upon a motion by Commissioner Purnell, the Commissioners unanimously adopted Resolution No. 10-26 establishing local amendments to the Maryland Building Performance Standards for Worcester County, Maryland. On June 1, 2010, the Commissioners met with Mr. Tudor to discuss updating County building code standards and following that discussion authorized staff to prepare a text amendment and resolution for their consideration. Mr. Tudor reviewed the draft resolution, stating that it details local amendments to the Maryland Building Performance Standards. He advised that the resolution simply carries forward all of the local amendments carried out by County staff in previous years with regard to local conditions and provides consistency with the Code of Public Local Laws of Worcester County, Maryland . He stated that it also contains the addition of Worcester County to the list of counties in which the standards do not apply to the construction, alteration or modification of an agricultural building used for agritourism purposes provided certain requirements are met.

Pursuant to the recommendation of County Attorney Sonny Bloxom and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Church to sign the Exclusive Use Agreement between the County Commissioners and Special Olympics Maryland, Inc. to store their boats and to hold Special Olympics sailing training at the Public Landing beach area from June 15, 2010 through September 1, 2010 with the continued provision that the training shall not interfere with other public use of the facility and that the County be released of liability for any claims which may arise from such use.

Pursuant to the recommendation of Mr. Bloxom and upon a motion by Commissioner Boggs, the Commissioners unanimously adopted Resolution No. 10-27 designating the Worcester County Sheriff's Office to enforce the State scrap metal law. Mr. Bloxom stated that during the 2010 Maryland General Assembly session, the State passed various amendments to the scrap metal laws contained in the Maryland Annotated Code, Business Regulations Article as emergency legislation, effective May 4, 2010. He advised that the only relevant impact on the County is a requirement to adopt a resolution designating a primary law enforcement unit for enforcement and reporting purposes. Mr. Bloxom stated that currently the default primary law enforcement unit for the County as to the requirements of this law is the Maryland State Police; and, therefore, the County needs to adopt a resolution appointing the Worcester County Sheriff's Office as the primary law enforcement unit. He concluded that at the present time there are no junk dealers and scrap metal processors operating in Worcester County nor does the County Code regulate them outside of zoning purposes, and, therefore, it has no fiscal impact on County operations.

Assistant Chief Administrative Officer Kelly Shannahan, Accounts Payable Clerk

Barbara Hitch and Emergency Management Planner David Fitzgerald presented the Commissioners with the new consolidated County cell phone plan. Mr. Shannahan recognized Ms. Hitch and Mr. Fitzgerald for their efforts working with all departments to revise the current cell phone plan, complete with shared minutes as well as limiting access to text messaging and data privileges to those specific staff members who rely on these features to effectively carry out their job duties. Mr. Shannahan concluded that the consolidation will save the County nearly \$1,400 per month and more than \$16,000 annually. He advised that further savings will be realized by training County employees on Best Practices to reduce expenses related to telephone and cell phone use. Mr. Shannahan concluded that staff will continue to monitor and make future adjustments to individual cell phone plans to take advantage of the best available pricing packages. Commissioner Church thanked Ms. Hitch and Mr. Fitzgerald for their time and efforts to address this complex issue.

Mr. Shannahan reviewed the *Reducing Telephone and Cell Phone Expenses Tip Sheet*, consisting of 12 “Best Practices” for reducing County telephone bills, which he advised may be used by all County staff to further reduce expenses. In response to a question by Commissioner Church, Mr. Fitzgerald explained that staff members in each of the departments understand that the proposed tips will help save money and are very receptive to implementing them. Upon a motion by Commissioner Gulyas, the Commissioners unanimously approved the tip sheet for distribution to all County employees. Commissioner Church commended staff for their continued efforts to cut telephone and cell phone costs.

The Commissioners met with Tourism Director Lisa Challenger to review two Memorandums of Understanding (MOUs) for transferring the operation of the Maryland Welcome Center on US Rt. 13 in Pocomoke from the State of Maryland to Worcester County. Chief Administrative Officer Gerald T. Mason reviewed both MOUs, explaining that the first MOU, which is between the Maryland Department of Business and Economic Development, Office of Tourism Development (DBED) and Worcester County, outlines the transfer of responsibility for the Welcome Center from the State to the County as well as the scope of services (work). The second MOU between the State Highway Administration (SHA) and DBED specifically outlines SHA’s responsibilities in relation to maintenance of the Welcome Center property. Mr. Mason advised that the State will close the center on Sunday, June 27, 2010, and Worcester County plans to reopen the center on or before July 1, 2010. He advised that County staff will be prepared to provide the Commissioners with operational recommendations for the center at their July 6, 2010 meeting.

In response to a question by Commissioner Church, Ms. Challenger stated that the Maryland Welcome Center in Pocomoke draws more tourists than most other centers in the State, and her office is prepared to take over operations in the near future. She recommended retaining the existing staff and volunteers based on their knowledge of the center, although a formal plan will be presented at a future meeting. She further recommended that the Welcome Center be open seven days each week through Labor Day, with a reduced schedule thereafter. Commissioner Busick noted that the Welcome Center in Pocomoke is a benefit to the entire County. County Attorney Sonny Bloxom advised that the State and County are still working through some of the fine details associated with the transfer, such as insurance limits, and he asked the Commissioners to approve the MOUs with the contingency that staff will continue

moving forward to resolve said issues. Following some discussion and upon a motion by Commissioner Gulyas, the Commissioners voted 5-1, with Commissioner Boggs voting in opposition, to authorize Commission President Church to sign the MOU. Commissioner Boggs stated that while she favors keeping the Welcome Center open, she is opposed to the State passing their obligation on to the County.

The Commissioners recessed for five minutes.

The Commissioners met in legislative session.

The Commissioners conducted a public hearing on Bill 10-6 (County Government - Ethics - Liquor Control Board), which was introduced by Commissioners Boggs, Busick, Church, Cowger, Gulyas, Purnell and Shockley on May 18, 2010. County Attorney Sonny Bloxom reviewed the proposed legislation, which was drafted in response to House Bill 1309/Senate Bill 306 - Somerset and Worcester Counties - Liquor Control Boards - Ethics, which was passed by the Maryland General Assembly on April 3, 2010 and subjects the Worcester County Liquor Control Board (LCB) to the Maryland Public Ethics Law effective October 1, 2010. Mr. Bloxom advised that the County Government Article of the Code of Public Local Laws of Worcester County, Maryland should be amended to remove the LCB from the County Ethics Law as of that date.

Commissioner Church opened the floor to receive public comment.

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

Upon a motion by Commissioner Shockley, the Commissioners unanimously adopted Bill 10-6 (County Government - Ethics - Liquor Control Board) as presented.

The Commissioners met with Development Review and Permitting Director Ed Tudor to review and discuss a text amendment application submitted by Thomas Coates, Esquire, on behalf of his client, Mr. Lee Williams, seeking to amend the provisions of Section ZS 1-318(d)(1)C to allow certain modular homes to be placed in campground subdivisions. Mr. Tudor stated that the amendment provides that modular homes meeting the requirements and definitions of the Maryland Industrialized Buildings and Mobile Home Act, which are permanently attached to a metal chassis, may be permitted in the two campground subdivisions currently located in Worcester County at White Horse Park and Assateague Pointe. He concluded that both County staff and the Planning Commission granted a favorable recommendation to the proposed text amendment. In response to a question by Commissioner Busick, Mr. Tudor advised that permitting these types of structures within the campgrounds would not encourage year-round residency in such parks any more than the existing types of structures that are currently permitted. Following some discussion, Commissioners Boggs, Busick, Church, Gulyas, Purnell and Shockley introduced the aforementioned bill as Bill 10-7 (Zoning - Campground Subdivisions) and agreed to hold the public hearing on July 20, 2010.

The Commissioners met with Mr. Tudor to review draft text amendment language to bring the outdated sections of the County Building Regulations Article into conformance with the current State law with regard to the Maryland Building Performance Standards (MBPS) Act. Mr. Tudor reviewed the amendment, stating that it eliminates all of the language currently contained in three sections of the Code of Public Local Laws of Worcester County, Maryland

and simply identifies the MBPS, as amended by the County Commissioners from time to time, as the local building code. Following some discussion, Commissioners Boggs, Busick, Church, Gulyas, Purnell and Shockley introduced the aforementioned bill as Bill 10-8 (Building Regulations - Construction Standards) and agreed to hold the public hearing on July 20, 2010.

Commissioner Church closed the legislative session.

The Commissioners answered questions from the press, after which they adjourned to meet again on July 6, 2010.