

April 15, 2008  
Hagerstown, Maryland

The regular meeting of the Board of County Commissioners of Washington County, Maryland was called to order at 8:35 a.m. by President John F. Barr with the following members present: Vice President Terry L. Baker, and Commissioners Kristin B. Aleshire, James F. Kercheval and William J. Wivell.

**INVOCATION AND PLEDGE OF ALLEGIANCE**

The Invocation was given by Commissioner Barr, followed by the Pledge of Allegiance to the Flag by the full assemblage.

**APPROVAL OF MINUTES - APRIL 1 & 8, 2008**

Motion made by Commissioner Kercheval, seconded by Baker, to approve the minutes of April 1 and 8, 2008. Unanimously approved.

**INTRODUCTION OF NEW EMPLOYEES**

William Sonnik, Human Resources Director, introduced new County employees Danny Taylor (Detention Center) and Brian Beall (911 Communications). The Commissioners welcomed the new employees and wished them well in their new positions.

**SOUTH COUNTY TOWER UPDATE/DISCUSSION**

Joe Kroboth, Director of Public Works, and Pete Loewenheim, Manager of Communications Maintenance, met with the Commissioners to discuss the development of the public communications tower proposed for southern Washington County. Mr. Kroboth provided a history of the project and outlined the concerns of the emergency service providers in the area due to the lack of radio communications. He stated that the project initially began in 1998. Mr. Kroboth indicated that this is a critical project and will need 10 sites to function as it is designed. Mr. Loewenheim explained the Public Safety standard "95-95" meaning that 95% of the time, in 95% of the County, that a portable radio "on the hip" should be able to operate by communicating through the tower.

Mr. Kroboth stated that discussions with National Park Service (NPS) representatives began over 18 months ago to attempt to develop a solution that was satisfactory to citizens in the area and would satisfy the need for public communications. He also noted that there are a high number of incidents in this area due to the proximity of the Potomac River. The NPS has expressed concerns regarding the tower location. Mr. Kroboth stated that

the NPS offered to have its technical experts assist and the County accepted NPS's offer and is compiling information to send to it as soon as non-disclosure agreements are executed by their representatives. Mr. Kroboth reviewed the following criteria on which the sites were evaluated: 1) the coverage requirement, 2) digital connectivity back to the system, and 3) whether the property was owned by the County. He noted that other alternative sites were evaluated but were not workable. Mr. Kroboth stated that it was found that the most efficient communication using the lowest tower height was to look back to the Lambs Knoll tower for connectivity.

He explained that the County had a balloon test performed where a crane was elevated to the tower height at the proposed location, then viewed from different historic locations as requested by the NPS. NPS felt the views from these sites were not acceptable and the NPS asked County staff to look at other locations for the tower. Mr. Kroboth outlined the procedures that are followed in siting a tower where there could be impact on historical areas, and stated that the County is following these procedures.

Mr. Kroboth stated that all the alternative sites offered were unacceptable to the County due to tests showing a significant loss in service, and the NPS had problems with the height of the tower at the proposed site. The County went back and evaluated coverage from the proposed location with different tower heights from 90' to 190'. The Committee agreed that it would accept a 10% reduction in coverage in order to satisfy concerns of NPS and evaluated the coverage with the tower being reduced to 100' as well as on two 90' towers. Mr. Kroboth

APRIL 15, 2008

PAGE TWO

indicated that the County needed a minimum of 150' to accommodate the various antennas and obtain an acceptable level of coverage. He stated that a public information meeting was held and that the staff has received between 150 and 200 letters and e-mail messages from citizens in and out of the County. He stated that the Committee would review the correspondence and evaluate whether any provide suggestions for a viable alternative solution. Mr. Kroboth distributed copies of the minutes from the Committee indicated that they would also be available on the County's Public Works web site. He stated that they will try to build consensus, but that the information will be presented to the Federal Communications Commission (FCC) along with the Environmental Impact Statement. The FCC will then make a decision balancing the impact. Sheriff Mullendore informed the Commissioners of the number of calls they receive every day in that area and stated that officers are completely without communications once they leave their vehicles. The meeting was opened for questions from the Commissioners. After discussion, the Commissioners agreed to hold another public informational meeting for citizen input regarding the proposed tower.

#### **CAPITAL IMPROVEMENT PLAN (CIP) REVIEW**

Debra Murray, Director of Finance, met with the Commissioners in order to review and discuss the changes made in the Capital Improvement Program (CIP) budget and the level of debt projected. Ms. Murray stated that funding for the Court House security project for the sally port, doors, gates, and security television were moved from the General Fund to the CIP fund. The Commissioners discussed the placement of several projects on the schedule including the Robinwood North, Eastern Boulevard Widening Phase I, and Southern Boulevard Phase I project. Ms. Murray stated that approximately \$4.3 million in pay-go funds were placed into the CIP budget in Draft #2.

Commissioner Aleshire stated that he is not convinced of the necessity of beginning the East City High School in FY 2011. The Commissioners agreed to discuss this with the Board of Education. Ms. Murray stated that they would have to begin building cash for that project. The Commissioners also indicated that funds for a Central Maintenance Facility and waste-to-energy project should be included in the long-range process. The Commissioners also discussed the reserves.

### **CITIZENS' PARTICIPATION**

Eric Whitenton suggested items to be included on the County's web site which would improve the search feature. He also expressed concerns regarding the proposed tower site.

Stephanie Whitenton stated that she has reviewed the FCC regulations for a tower site and its proximity to historical sites. She reviewed a map of the Sandy Hook area showing sites included on the Historic Register.

### **REPORTS FROM COUNTY STAFF**

Bill Sonnik, Director of Human Resources, requested authorization to advertise to fill a Motor Equipment Operator I position at the Highway Department and a Permits Technician at the Permits & Inspections Department.

Motion made by Commissioner Kercheval, seconded by Baker, to approve the request to advertise to fill a Motor Equipment Operator I position at the Highway Department and a Permits Technician at the Permits & Inspections Department. Unanimously approved.

Kevin Lewis, Acting Director of the Division of Fire & Emergency Services, informed the Commissioners that his department was awarded a matching grant through the National Highway Transportation Safety Act and the Maryland Institute of Emergency Medical Services Systems (MIEMSS) in the amount of \$2,597 to purchase highway safety vests and for restraints and wall-mounted brackets for defibrillators in emergency vehicles.

Motion made by Commissioner Kercheval, seconded by Aleshire, to approve execution of a grant for the Division of Fire & Emergency Services from the National Highway Transportation Safety Act and the Maryland Institute

APRIL 15, 2008

PAGE THREE

of Emergency Medical Services Systems in the amount of \$2,597 for the items as presented, with the matching funds to come from the Department's operational budget. Unanimously approved.

Mr. Lewis also informed the Commissioners that this is National Tele-communicators Week. He stated that personnel will be attending the Navigator Conference for additional training.

Joe Kroboth, Director of Public Works, informed the Commissioners that the Notices to Proceed for the Mt. Aetna/Dual Highway will be issued next week and the Fiber Optic project and Elliott Parkway project will also begin in the near future. He stated that they expect an increase in the bids for the Pavement Maintenance Contract this year due to increases in the price of hot mix asphalt.

Sheriff Mullendore informed the Commissioners of the creation of a Joint Warrant Task Force to provide for the more efficient use of resources. He stated that it consists of personnel from the Sheriff's Department, Hagerstown City Police, and Maryland State Police. He stated that the County is having discussions with the Maryland State Police about providing dispatch services for both agencies. Sheriff Mullendore explained that the strategy would be to divide the County into two districts and then into smaller sectors. The dispatcher would dispatch the unit closest to a scene whether County or State. Commissioner Wivell asked that Sheriff Mullendore request that the funds budgeted for State dispatchers be reallocated to the County.

#### **COMMISSIONERS' REPORTS AND COMMENTS**

Commissioner Kercheval noted that Hagerstown was named one of the areas to be the "Capital for a Day" and stated that the day should be well planned to highlight what the City and County are doing when Governor O'Malley is here. He stated that he attended the Celebration of Business awards, the State of Education presentation, the welcoming ceremony for Delegate Serafini, and the Habitat for Humanity fundraiser. Commissioner Kercheval stated that he attended the grand opening of the new Boonsboro Branch Library and congratulated the community on its fundraising efforts.

Commissioner Baker stated that he attended the Celebration of Business and State of Education presentation. He noted that

opening day for the Washington County Girls Softball League was postponed last week and rescheduled for April 19.

Commissioner Wivell stated that he attended the Celebration of Business and the ribbon-cutting ceremony for the Boonsboro Branch Library.

Commissioner Aleshire stated that he attended meetings of the Clear Spring Mayor and Council, the Clear Spring Ambulance Company, Hancock EMS Company, the State of Education, Boonsboro High School Citizen Advisory Committee, the reception for Delegate Serafini, and the Hagerstown Suns opening game. He distributed a cost proposal provided by Wire One Communications for broadcasting the Commissioners' meetings on the Internet. Greg Murray, County Administrator, advised the Commissioners that the equipment will be in place within the next couple of weeks.

**PROCLAMATION - NATIONAL CRIME VICTIMS' RIGHTS WEEK**

Commissioner Barr presented a proclamation to employees representing the Victims' Rights Unit of the State's Attorney's Office, designating the week of April 13-19, 2008, as National Crime Victims' Rights Week and asking all citizens to join forces with victim service programs, criminal justice officials, and concerned citizens to raise awareness of this observance. Jill Ritter, Victims Rights Coordinator, thanked the Commissioners for the proclamation and informed them of activities planned to observe National Crime Victims' Rights Week.

**PRIORITY RANKING - MARYLAND AGRICULTURAL LAND PRESERVATION PROGRAM (MALPP)**

Eric Seifarth, Rural Preservation Administrator, met with the Commissioners regarding the priority ranking system in place for the

APRIL 15, 2008

PAGE FOUR

Maryland Agricultural Land Preservation Program (MALPP). Mr. Seifarh stated that the Commissioners had asked the Agricultural Land Preservation Advisory Board to review the existing priority ranking checklist and assess whether the points given to Economic Viability and the number of potential lot rights on a prospective easement property were given additional weight. He informed them that the Advisory Board reviewed the point range and recommended that the ranking system remain as it is. Mr. Seifarh reviewed the priority checklist and the possible points value for each category. The meeting was opened for discussion and questions. Commissioner Aleshire stated that he still disagrees with the weight that is given to "proximity to easement" category. David Herbst, Chair of the Advisory Board, explained the Board's position on this matter. Commissioner Kercheval asked that points given for "percentage of acres" included in easement be re-examined to reflect development potential versus percentage of acres and noted an example where points could be attained when no development rights were extinguished.

**CONVENE IN CLOSED SESSION**

Motion made by Commissioner Kercheval, seconded by Baker, to convene in closed session at 11:41 a.m. to consider the acquisition of real property for a public purpose and matters directly related thereto in accordance with Section 10-508 of the State Government Article of the Annotated Code of Maryland. Unanimously approved.

**RECONVENE IN REGULAR SESSION**

Motion made by Commissioner Kercheval, seconded by Aleshire, to reconvene in open session at 12:45 p.m. Unanimously approved.

In closed session, the Commissioners considered the acquisition of real property for a public purpose and matters directly related. Present during closed session were Commissioners John F. Barr, Terry L. Baker, Kristin B. Aleshire, James F. Kercheval, and William J. Wivell. Also present at various times were Gregory Murray, County Administrator; John Martirano, County Attorney; Joni Bittner, County Clerk; Joe Kuhna, Real Property Administrator; Board of Education members Paul Bailey, Roxanne Ober, Wayne Ridenour, Donna Brightman, William Staley, and Ruth Anne Callaham; Dr. Elizabeth Morgan, Superintendent of Schools; Boyd Michael, Assistant Superintendent for School

Operations; Chris South, Chief Financial Officer; Donna Hanlin, Assistant Superintendent for Secondary Instruction; Robert Spong, Facilities Planning Manager; Mike Peplinski, Director of Maintenance and Operations; Rob Rollins, Director of Facilities Planning & Development; Anthony Trotta, Chief Legal Counsel; Mike Markoe, Assistant Superintendent for Elementary Education; Stuart Bass, City of Hagerstown Comprehensive Planner; and Mike Thompson, Director of Planning & Community Development.

### **RECESS**

The Commissioners recessed at 12:45 p.m. for a luncheon meeting with the Board of Education.

### **JOINT MEETING WITH BOARD OF EDUCATION**

The Commissioners met with the Board of Education at 12:45 p.m. for a working lunch. The following Board of Education members were present: Roxanne Ober, Paul Bailey, Ruth Anne Callahan, William Staley, Donna Brightman, and Wayne Ridenour. Staff members making presentations were Dr. Elizabeth Morgan, Superintendent of Schools; Boyd Michael, Assistant Superintendent for School Operations; and Chris South, Chief Financial Officer.

### **Second Quarter Budget Adjustments**

Motion made by Commissioner Aleshire, seconded by Kercheval, to approve the following second quarter budget adjustments, as requested by the Board of Education, by decreasing the following categories: Mid-Level Administration - \$72,650; Instructional Salaries - \$690,574; Instructional Textbooks & Supplies - \$27,105; and Operation of Plant - \$176,238; and by increasing the following categories: Revenue - \$568,511; Administration - \$100,000; Maintenance of Plant - \$36,500; Other Instructional Costs - \$11,915; Special Education - \$920,715; Capital

APRIL 15, 2008

PAGE FIVE

Outlay - \$354,013; and Fixed Charges - \$111,925; for a net increase on Fund Balance of \$0. Unanimously approved.

2+2 Mitigation Flow Chart and School Fact Sheet

Boyd Michael reviewed the working draft of a diagram outlining the Board of Education's policy on developer-funded school construction projects within the framework of the FEC and Adequate Public Facilities Ordinance (APFO). They reviewed a proposed mitigation flow chart and asked for the Commissioners' comments. Ms. Callahan stated that she believes the 2+2 Committee accomplished their goal to provide an easily understood methodology to outline the school portion of the APFO. The Commissioners made a minor editorial change to the title. They also asked that it be included on the County's website. The group discussed capacity issues and State-rated capacity.

**RECESS**

The Commissioners recessed at 1:21 p.m. and returned to the meeting room for the remaining portion of the afternoon session.

**BID AWARD - INDUSTRIAL EQUIPMENT LEASE PURCHASE**

Motion made by Commissioner Kercheval, seconded by Baker, to award the contract for Industrial Equipment (Lease/Purchase and Trade) for the Solid Waste Department to the following bidders who submitted the lowest responsive, responsible bids: Item #1 - One (1) Crawler Bulldozer to Alban Tractor for the annual lease payment for five years of \$37,847 per year (to include the trade of used equipment); and Item #2 - One (1) Hydraulic Crawler Excavator to Valley Supply & Equipment for the annual lease payment for five (5) years of \$50,074.84, contingent upon approval of the final Lease Agreement by the County Attorney and to waive the requirement for providing performance bonds. Unanimously approved.

**BID AWARD - LEACHATE HAULING FROM SOLID WASTE DEPARTMENT FOR DISPOSAL**

Motion made by Commissioner Wivell, seconded by Baker, to award the contract for Leachate Hauling from the Solid Waste Department for Disposal to AmTran Inc., which submitted the low responsive responsible bid of \$226,350 for a one(1) year period tentatively commencing May 1, 2008, with an option by the County to renew for up to four (4) additional consecutive one (1) year periods. The County guarantees neither a minimum/maximum number

of calls nor quantity of material for this contract.  
Unanimously approved.

#### **GENERAL FUND BUDGET WORKSHOP**

Debra Murray, Director of Finance, and Kim Edlund, Assistant Director, met with the Commissioners to review the FY 2009 General Fund Budget. Ms. Murray summarized the changes made to the General Fund following last week's meeting. She stated that adjustments were made to the Animal Control budget, Gypsy Moth Program adjusted to flat \$100,000, and CASA. Ms. Murray provided additional information on the Memorial Recreation Program and indicated that they are not in compliance with Gaming Commission regulations and, as a non-profit agency, are not eligible for Program Open Space funding. The Commissioners asked that staff contact the Gaming Commission to discuss the situation with the Memorial Recreation Board. Commissioner Kercheval stated that he feels the amount budgeted by the Board of Education for moving portable classrooms is high and suggested that they be permitted to use any remaining funds from this line item for capital maintenance.

#### **Capital Budget**

The Commissioners discussed the Hagerstown Community College (HCC) budget. They asked staff to determine the priority for the project to renovate the Kepler Theater and what year that funding would be needed. The Commissioners discussed moving Phase I of the Eastern Boulevard widening project to FY 09-10 and agreed to talk to the Director of Public Works to obtain his input before proceeding. Ms. Murray agreed to rearrange the projects and determine how it would affect the schedules.

#### **HALFWAY MANOR APARTMENTS - LETTER OF SUPPORT**

Jon Gottlieb and Brandon Healy, representing Michael's Development Company, requested that the Commissioners approve the execution of a

APRIL 15, 2008

PAGE SIX

letter of support for their application seeking tax-exempt financing and an allocation of low-income housing tax credits from the Maryland Department of Housing and Community Development. He stated that the Commissioners had previously approved this letter; however, his company did not get the application submitted at that time. Mr. Gottlieb informed the Commissioners that the State requires that the local letter of support be dated within 90 days of the submission of the full application package. He stated that submission of the application would be made following receipt of the updated local support letter.

Mr. Gottlieb reviewed the project and noted that it also contains the security improvements recommended by the Washington County Sheriff's Department. He indicated that if additional funding is secured, they would also include energy conservation measures and rehabilitation of an existing structure to make a community center. The meeting was opened for discussion and questions. Commissioner Kercheval questioned whether additional amenities would be required by the regulations due to the consolidation of the smaller playgrounds into one larger one. Mr. Gottlieb stated that this was not required.

Motion made by Commissioner Kercheval, seconded by Baker, to support the resubmittal of a letter of support for application seeking tax-exempt financing and an allocation of low-income housing tax credits from the State Department of Housing and Community Development for Halfway Manor Apartments. Motion carried with Commissioners Kercheval, Baker, Wivell and Barr voting "AYE" and Commissioner Aleshire voting "NO."

**YOUTH OF THE MONTH AWARDS - JANUARY - APRIL 2008**

The Commissioners presented certificates of merit to the following students in recognition of their selection as Youth of the Month by the Washington County Community Partnership for Children & Families (WCCP): Stacey Pittman (Hancock Middle/Senior High School) - January 2008; Caitlin Wolfe (Boonsboro Middle School) - February 2008; Catherine Hess (Hancock Middle/Senior High School) - March 2008; Emily Winters (Clear Spring Middle School) - April 2008; and Kirsten Humphrey (Boonsboro High School) - April 2008. The Commissioners commended them for their leadership, academic and extra-curricular activities. Commissioner Barr stated that they would each receive a \$100 savings bond from the WCCP.

**MEMORANDUM OF UNDERSTANDING - MARYLAND PUBLIC EMPLOYEES COUNCIL 67, AFSCME, AFL-CIO AND ITS LOCAL 2677, AFL-CIO**

William Sonnik, Director of Human Resources, appeared before the Commissioners to review the final version of the Memorandum of Understanding (MOU) with Maryland Public Employees Council 67, AFSCME, AFL-CIO and its Local 2677, AFL-CIO. Mr. Sonnik reviewed the changes in the MOU and stated that the five-year agreement would become effective on July 1, 2008. He thanked the County staff who participated in facilitating the agreement.

Motion made by Commissioner Wivell, seconded by Aleshire, to approve the Memorandum of Understanding between Board of County Commissioners of Washington County, Maryland and Maryland Public Employees Council 67, AFSCME, AFL-CIO and its Local 2677, AFL-CIO for Highway, Solid Waste, Transit and Emergency Communications Departments, July 1, 2008 - June 30, 2013. Unanimously approved.

**SCHOOL MITIGATION PROPOSAL - SHENANDOAH ESTATES**

Michael Thompson, Director of Planning & Community Development, met with the Commissioners regarding the Shenandoah Estates school mitigation proposal. He introduced Jason Divelbiss, counsel representing the John R. Oliver Company, who appeared before the Commissioners to review the mitigation proposal under Section 9.1 of the County's Adequate Public Facilities Ordinance (APFO) for the project as it relates to school capacity. Mr. Thompson stated that Shenandoah Estates would consist of 8 single-family units along Bakersville Road.

Mr. Thompson stated that the development is served by Fountain Rock Elementary, Springfield Middle and Williamsport High Schools. The recent realignment by the Board of Education leaves the development in the

APRIL 15, 2008

PAGE SEVEN

Fountain Rock Elementary School district, but will result in approximately 133 students being shifted into the new Rockland Woods Elementary School. Based on December 2007 enrollment numbers, the schools are at 90% (if the enrollment is shifted), 93% and 101% capacity respectively.

Mr. Thompson informed the Commissioners that the developer has proposed to mitigate the high school situation by payment of a mitigation fee in the amount of \$30,000 as a condition of recording the final plat and to pay the current excise tax of \$13,000 for each single-family dwelling. The meeting was opened for questions and discussion.

Motion made by Commissioner Kercheval, seconded by Baker, to approve the mitigation offer for Shenandoah Estates with the developer to mitigate the high school situation by payment of a mitigation fee in the amount of \$30,000 as a condition of recording the final plat and to pay the full excise tax at whatever excise tax rate is in effect at the time of the issuance of the building permit, but at no time shall the amount of excise tax paid per lot be less than the current excise tax of \$13,000. Motion carried with Commissioners Kercheval, Baker, Wivell and Barr voting "AYE" and Commissioner Aleshire voting "NO."

**SCHOOL MITIGATION PROPOSAL - RAY & GENEVA CLARK**

Michael Thompson, Director of Planning & Community Development, met with the Commissioners regarding a proposal for a single-family lot school mitigation proposal. Jason Divelbiss, counsel for the applicant, appeared before the Commissioners to review the mitigation proposal under Section 9.1 of the County's Adequate Public Facilities Ordinance (APFO) for the project as it relates to school capacity. Mr. Thompson stated that the proposal is to permit the development of one additional single-family lot in the Clear Spring school district.

Mr. Thompson stated that the development is served by Clear Spring Elementary, Clear Spring Middle and Clear Spring High Schools. Based on December 2007 enrollment numbers, the schools are at 107%, 73% and 95% capacity respectively. The lot is proposed to generate 0.38 elementary school students. He stated that this is the sixth lot in the subdivision with the previous five lots being exempt. Mr. Divelbiss stated that all of the lots were sold to immediate family members, either children or grandchildren of the Clarks. He noted that they have applied

for a permanent agricultural preservation easement on the balance of the property.

Mr. Thompson informed the Commissioners that the developer has proposed to mitigate the elementary school situation by providing a payment of \$1,000 over and above the current excise tax of \$13,000. The meeting was opened for questions and discussion.

Motion made by Commissioner Aleshire, seconded by Baker, to approve mitigation for one single-family lot located in the Clear Spring School district with no additional mitigation amount and the developer paying the then-applicable excise tax at the time of building permit. Motion carried with Commissioners Aleshire, Baker and Barr voting "AYE" and Commissioners Kercheval and Wivell voting "NO."

(Commissioner Aleshire was excused from the meeting at this time.)

**CONVENE IN CLOSED SESSION**

Motion made by Commissioner Baker, seconded by Kercheval, to convene in closed session at 3:52 p.m. to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State; and to consult with counsel to obtain legal advice on a legal matter, in accordance with Section 10-508 of the State Government Article of the Annotated Code of Maryland. Unanimously approved.

**RECONVENE IN REGULAR SESSION**

Motion made by Commissioner Wivell, seconded by Kercheval, to reconvene in open session at 5:21 p.m. Unanimously approved.

APRIL 15, 2008

PAGE EIGHT

In closed session, the Commissioners considered a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State and consulted with counsel to obtain legal advice on a legal matter. Present during closed session were Commissioners John F. Barr, Terry L. Baker, James F. Kercheval, and William J. Wivell. Also present at various times were Gregory Murray, County Administrator; John Martirano, County Attorney; Andrew Wilkinson, Assistant County Attorney; Joni Bittner, County Clerk; Joe Kroboth, Director of Public Works; and Jason Divelbiss, Esq.

**ADJOURNMENT**

Motion made by Commissioner Baker, seconded by Wivell, to adjourn at 5:21 p.m. Unanimously approved.

\_\_\_\_\_,  
County Administrator

\_\_\_\_\_,  
County Attorney

\_\_\_\_\_  
County Clerk