

January 8, 2008  
Hagerstown, Maryland

The regular meeting of the Board of County Commissioners of Washington County, Maryland was called to order at 8:40 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 delivered by Commissioner Barr, followed by the Pledge of Allegiance to the Flag by the full assemblage.

**APPROVAL OF MINUTES - DECEMBER 11 & 18, 2007**

Motion made by Commissioner Kercheval, seconded by Baker, to approve the minutes of December 11 and 18, 2007, with corrections. Unanimously approved.

**COMMISSIONERS' REPORTS AND COMMENTS**

Commissioner Baker stated that he attended the viewing and funeral services for Smithsburg Police Officer Christopher Nicholson, who was killed in the line of duty, and offered his condolences to the family. He reported on the Recreation & Parks Board meeting. He also informed the Commissioners that he attended the "Santa in the Park" event sponsored by the Town of Williamsport and that there were approximately 230 children in attendance.

Commissioner Kercheval stated that he also attended the services for Officer Nicholson. He reported on the meetings of the Local Management Board and Planning Commission. Commissioner Kercheval provided highlights of the Maryland Association of Counties (MACo) Winter Conference and the seminars he attended. He stated that it is projected that there will be rolling blackouts in the State during the summer of 2009 due to power shortages.

Commissioner Aleshire informed the Commissioners that he attended the City's benefit concert for the Community Action Council which netted approximately \$15,000 for its utility assistance program. He stated that he would be attending the Halfway Volunteer Fire and Rescue Company banquet on Saturday but would have to leave early due to a family commitment. Commissioner Aleshire reported on the Commission on Aging meeting. He stated that there is information regarding application for the Homestead Property Tax Credit in recently-mailed reassessment notices. He noted that both the County and City reduced the property tax cap from ten percent to five percent; however, the State has not taken this action.

Commissioner Barr reported on the MACo Winter Conference and the similar issues facing all Maryland counties. He noted that the meeting regarding the transmission line that could potentially go through southern Washington County was cancelled by Allegheny Power due to lack of information.

**REZONING MAP AMENDMENT RZ-07-004 (WASHCO ARNETT FARM, LLC)**

Kirk Downey, Assistant County Attorney, stated that the purpose of today's session is for the Commissioners to discuss the rezoning case with the hope that they will reach a consensus. He would then develop findings of fact and articulation of reasons for the decision, which would be brought back for final adoption at a future meeting.

Stephen Goodrich, Chief Planner, reviewed the staff report and Planning Commission findings for rezoning case RZ-07-004, submitted by WASHCO Arnett Farm, LLC to rezone 29.53 acres of land located on the west side of Maryland Route 65 from HI-2 (Highway Interchange 2) to HI-1 (Highway Interchange 1). Mr. Goodrich stated that the Planning Commission voted to recommend approval of the request, based on the determination that there was a mistake in the original zoning of the property and that the request was logical, appropriate and consistent with the Comprehensive Plan.

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The meeting was opened for discussion and questions of the staff. The Commissioners discussed the current use of the property, payment for relocation of Rench Road, buffering from residential areas, and the water and sewer designation. The Commissioners also discussed the letter they received from the Planning Commission recommending that no further rezoning cases be heard until the Urban Area Rezoning Task Force has made its findings. Bruce Dean, attorney for the applicant, clarified the intent of the applicant regarding the relocation of Rench Road and providing access to current residences.

Commissioner Aleshire indicated that he supports the requested rezoning, with conditions, for the following reasons: the subject property is located within the boundary of the Urban Growth Area, the Comprehensive Plan's land use map classified the subject property as "Commercial," the request for the subject property to be rezoned to HI-1 is consistent with the Land Use Plan adopted in the Comprehensive Plan, and the rezoning request involves a proposed zoning classification which may not be compatible with HI-1 uses. He stated that conditions should include adequate buffering from residential properties and the requirement that the developer pay for the relocation of Rench Road.

Commissioner Kercheval expressed his support for the rezoning request with buffering requirements for homes to the south and relocation of the road. He suggested that the developer may want to consider using a berm for buffering purposes.

Commissioner Baker stated that he believes the Commissioners should wait on the Task Force's recommendations before taking action. He cited water and sewer concerns and the type of businesses that are acceptable in this classification.

Commissioner Wivell recommended additional conditions to include restricted access to the Sharpsburg Pike at its intersection with Battlecreek Boulevard, developer-funded relocation of Rench Road from Sharpsburg Pike to the westernmost end of the property, and that residential buffering is required at 75 feet to include the use of berms and trees.

It was the consensus of the Commissioners to approve rezoning request RZ-07-004 with the conditions noted. Mr. Downey stated that he would use the Commissioners' comments to draft the formal motion and findings of fact.

**REZONING TEXT AMENDMENT RZ-07-006 - PROPOSED REVISIONS RELATING TO REZONING PROCEDURES**

Mr. Downey reviewed rezoning text amendment RZ-07-006 for amendments to the text of the Zoning Ordinance. He reviewed the proposed amendments for submission of an amendment application through changes to Section 27.1 "Procedure." Mr. Downey indicated that the amendment provides for changes in rezoning procedures and includes changes to the information that is required to be submitted with an amendment application through changes to Section 27.2 "Public Hearing," Section 27.3, Section 27.6 and Section 27.7. He stated that the Planning Commission recommended adoption of the amendments.

Motion made by Commissioner Baker, seconded by Kercheval, to adopt Zoning Text Amendment RZ-07-006 which amends Article 27 relating to rezoning procedures, and to adopt proposed procedures and policies as presented. Unanimously approved. Commissioner Aleshire was not present for the motion or the vote on this text amendment.

**CONTRACT AWARD - HAULING OF SCRAP TIRES FROM THE FORTY WEST LANDFILL FOR RECYCLING**

Motion made by Commissioner Wivell, seconded by Kercheval, to award the bid for hauling of scrap tires from the Forty-West Landfill for recycling to The Dirt Express Company, which submitted the low responsive, responsible bid of \$23,025 based on estimated annual quantities. The contract is for one (1) year with the option by the County to renew for up to three (3) additional consecutive one (1) year periods. Unanimously approved.

**CITIZENS' PARTICIPATION**

Tom Berry requested that updates be made on the County's website regarding the Home Rule Charter Board. Mr. Berry indicated that September and October minutes are not on the site. He stated that the Home Rule Charter Board voted not to publish a minority report at those meetings. Mr. Berry also stated that the [www.charterboard.org](http://www.charterboard.org) site should give equal space on its website for debate and make it clear that the County is neutral relating to the charter issue.

**COUNTY ADMINISTRATOR'S COMMENTS**

Greg Murray, County Administrator, informed the Commissioners that the Maryland Access Point ribbon-cutting ceremony will be held on January 14 at the Commission on Aging offices. Mr. Murray stated that a schedule of fire and rescue banquets was sent to the Commissioners. He reminded the Commissioners that an application is required to take advantage of the Homestead Property Tax Credit. John Martirano, County Attorney, indicated that it is his understanding that it is a one-time application that must be filled out prior to April of 2008 if your property was reassessed this year.

**REPORTS FROM COUNTY STAFF**

Joe Kroboth, Director of Public Works, asked the Commissioners for their approval of an agreement with the Maryland State Highway Administration (SHA) for the Interstate 70/Black Rock Road Bridge Project. Mr. Kroboth explained that the agreement would allow SHA to lower Black Rock Road due to insufficient clearances. He stated that the substance of the agreement is standard and has no financial impact on the County. Mr. Kroboth noted that the agreement was reviewed by the Public Works Department and the County Attorney's office. Mr. Kroboth agreed to return later in the meeting after allowing the Commissioners time to review the agreement.

William Sonnik, Human Resources Director, introduced new County employees Bonn Poland (Information Technologies), Sarah Lankford (Economic Development Commission), Timothy Warrenfeltz (Highway Department), and Vicky Yates (Finance). The Commissioners welcomed the new employees and wished them well in their positions.

**AMENDMENT TO WESTFIELD'S SUBDIVISION ADEQUATE PUBLIC FACILITIES AGREEMENT**

Joe Kroboth, Director of Public works, met with the Commissioners to review a proposed amendment to Westfield's Subdivision Adequate Public Facilities Agreement ("Agreement"). The Agreement requires the Developer to construct various public roads, one of which is Cambeltown Drive. He stated that Cambeltown Drive is partially completed and ultimately would span the full frontage of the new Rockland Woods Elementary School. However, the site plan for the new Rockland Woods Elementary School was not completed until eight months after the Agreement was executed and vehicles cannot access certain parking and drop off areas on the school site. The remaining portions of Cambeltown Drive are scheduled to be constructed in a future phase.

Mr. Kroboth explained that although the ARF indicates that he was going to request an amendment to the Agreement with a modified phasing schedule the situation with the Developer has changed since the ARF was submitted. He was now requesting that the County fund the construction of the road and enter into an agreement with Westfields for full reimbursement of all costs associated with said construction.

Mr. Kroboth proposed three options to solve the access problem: 1) approximately 650 feet of road could be constructed along the full frontage of the school, 2) construct approximately 300 feet of road, which is enough to gain access to the school driveway and student drop off area, or 3) construct a minimum-width drive along the future road alignment and tie it into the school driveway. He stated that the final option would be significantly impacted when the Developer finally returns to complete the remaining sections of the subdivision. Jeremy Holder, representing Westfields, indicated that Westfields understands and agrees that it has a future obligation to construct the road, but due to the slow housing market, would not be able to construct the road at this

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time. Westfields has agreed to reimburse the County for that section of roadway when that phase of the development is constructed. Mr. Holder estimated that it would be at least three years before it would begin construction of that phase of the subdivision. He indicated that they would make every attempt to perform construction in the summer months so they would not impact the school.

Motion made by Commissioner Kercheval, seconded by Aleshire, to approve the construction by the County of a portion of Cambeltown Drive to be constructed earlier than anticipated and also to approve the forward funding thereof to allow access to the Rockland Woods Elementary School and to approve an agreement with Westfields, LLC requiring Westfields to fully reimburse the County for all costs associated with the construction of that portion of Cambeltown Drive with the condition that full reimbursement to the County occur when that phase of the development is constructed, but no later than five (5) years from the date of the agreement. Motion carried with Commissioners Kercheval, Aleshire, Baker, and Barr voting "AYE," and Commissioner Wivell voting "NO."

**AGREEMENT WITH STATE HIGHWAY ADMINISTRATION - I-70 OVER BLACK ROCK ROAD BRIDGE PROJECT**

Motion made by Commissioner Kercheval, seconded by Aleshire, to approve execution of a Memorandum of Understanding with the Maryland State Highway Administration for scheduled improvements to Interstate 70 over Black Rock Road bridge. Unanimously approved.

**RECESS - LUNCH**

The Commissioners recessed at 11:33 a.m. for lunch.

**AFTERNOON SESSION**

The afternoon session was called to order at 1:02 p.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.

**RENTAL ALLOWANCE PROGRAM APPLICATION - FY 2008**

Motion made by Commissioner Wivell, seconded by Baker, to submit an application to the State Office of Rental Services Programs for the renewal of the Rental Allowance Program (RAP) for FY 2008 and to approve the proposed Grant Agreement for an amount up to \$20,000 and for any additional amounts that may become available at a later date for FY 08.. Unanimously approved.

**U.S. 40/EDGEWOOD DRIVE - MEMORANDA OF UNDERSTANDING WITH STATE HIGHWAY ADMINISTRATION**

Gary Rohrer, Director of Special Projects, informed the Commissioners that the City is requesting that the Memorandum of Understanding between the Maryland State Highway Administration (SHA), the City, and the County for the reconstruction of the intersection of Rt. 40 and Edgewood Drive be amended for the SHA and County to participate in the cost of replacing rather than relocating the existing water line. He stated that this would increase the County's contribution by an estimated \$61,500. Mr. Rohrer explained that the previous agreement brought before the Commissioners was based on a 50-30-20 (SHA, County, City) participation in relocating the water lines. He informed the Commissioners that SHA has rejected the request stating that it would violate regulations in the Annotated Code of Maryland and they are concerned about setting a precedent on other future projects. However, the State has agreed to provide the amount budgeted for relocating the lines to the City to be used toward replacement. The meeting was opened for questions and discussion.

Motion made by Commissioner Wivell to provide up to \$75,000 for the replacement of the City of Hagerstown's water lines in the U.S. 40/Edgewood Drive project with the agreement that it be subtracted from the City's tax set-off funds. The Motion died for lack of a second.

Motion made by Commissioner Kercheval, seconded by Baker, to approve the Memorandum of Understanding with the State Highway Administration for the U.S. 40 Edgewood Drive Project to include an agreement that the County would participate in an amount up to 30% for replacement of the City water lines in the joint agreement area of the project, in an amount not to exceed \$75,000. Motion carried with Commissioners Kercheval, Baker, and Barr voting "AYE" and Commissioners Aleshire and Wivell voting "NO."

Commissioner Aleshire asked that it be reflected that he voted in opposition to the motion because since he does not agree with capping the amount at \$75,000.

Mr. Rohrer noted that all issues discussed earlier were addressed in the MOU with the State; however, he was unable to have the conditions removed that reference the highway user revenues.

**PROPOSED AMENDMENT TO THE FY 2008 PROGRAM OPEN SPACE (POS) PROGRAM**

James Sterling, Director of the Buildings, Grounds & Parks Department, met with the Commissioners to request approval to amend the FY 2008 POS Annual Plan to include the purchase of 2.52 acres of land with improvements for the Town of Smithsburg in the amount of \$145,000. Mr. Sterling stated that Smithsburg's Mayor and Council requested the purchase for land adjacent to Veterans Park. The two-car masonry block construction detached garage on the property would be used as an additional storage area for park maintenance equipment. He informed the Commissioners that \$526,318 is reserved for Parkland Acquisition in the POS funding. The meeting was opened for questions.

Motion made by Commissioner Kercheval, seconded by Wivell, to approve an amendment to the FY 2008 POS Program to include the purchase of 2.52 acres of land with improvements for the Town of Smithsburg in the amount of \$145,000 for park land adjacent to their existing Veterans Park. Unanimously approved.

**CONVENE IN CLOSED SESSION**

Motion made by Commissioner Aleshire, seconded by Kercheval, to convene in closed session at 1:38 p.m. to discuss the appointment, employment, assignment and/or compensation of appointees, employees or officials over whom it has jurisdiction; to discuss personnel matters that affect one or more specific individuals; to consider the acquisition of real property for a public purpose and matters directly related thereto; to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State; to discuss public security as the public body has determined that public discussion would contribute a risk to the public or public security; to consult with staff, consultants or other individuals about pending or potential litigation; 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 Kercheval, seconded by Baker, to reconvene in open session at 4:26 p.m. Unanimously approved.

In closed session, the Commissioners discussed the appointment, employment, assignment and/or compensation, of appointees, employees or officials over whom it has jurisdiction; discussed personnel matters that affect one or more specific individuals; considered the acquisition of real property for a public purpose and matters directly related thereto; considered a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State; discussed public security as the public body has determined that public discussion would contribute a risk to the public or public security; consulted with staff, consultants or other individuals about pending or potential litigation; and consulted with counsel to obtain legal advice on a legal matter. 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; Kirk Downey,

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Assistant County Attorney; Joni Bittner, County Clerk; James Sterling, Director of Buildings, Grounds & Parks; Tim Troxell, Executive Director of the Economic Development Commission; Mike Thompson, Director of Planning & Community Development; Sheriff Douglas Mullendore; Dan DiVito, Director of the Permits & Inspections Department; Earl Stoner, Health Officer; Pete Loewenheim, Communications Maintenance Supervisor; Joe Rathvon, Engineering Department Project Manger; Ed Ryan, Department of Natural Resources Wireless Communications Division; Capt. Charles Summers, Hagerstown Police Department; Ray Parker, Motorola, Inc.; and Joe Kroboth, Director of Public Works.

**ADJOURNMENT**

Motion made by Commissioner Wivell, seconded by Aleshire, to adjourn at 4:26 p.m. Unanimously approved.

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County Administrator

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County Attorney

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County Clerk