

August 26, 2008
Hagerstown, Maryland

The regular meeting of the Board of County Commissioners of Washington County, Maryland was called to order at 9:38 a.m. by President John F. Barr with the following members present: Vice President Terry L. Baker and Commissioners 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 - AUGUST 19, 2008

Motion made by Commissioner Kercheval, seconded by Baker, to approve the minutes of August 19, 2008. Unanimously approved.

(Commissioner Aleshire arrived at 9:43 a.m.)

COMMISSIONERS REPORTS AND COMMENTS

Commissioner Baker informed the Commissioners that he attended Everybody's Day at PenMar County Park and complimented the staff for organizing the program. He also asked that a letter of appreciation be sent to James Powers who schedules the bands that play at the Park throughout the summer season. Commissioner Baker stated that he also attended the Williamsport Days festivities and recognized the committee members who organized the event. He congratulated Dr. Guy Altieri, President of Hagerstown Community College on the 10% increase in enrollment. Commissioner Baker also congratulated the Federal Little League All-Star Team and coaches for their efforts at the Little League World Series and for their fine representation of Washington County.

Commissioner Kercheval congratulated both the Federal Little League All-Star and the Hagerstown Pony League All-Star teams on their successful seasons. He noted that it was unusual to have two teams from the same City who both qualified for the World Series championships in the same year. Commissioner Kercheval stated that recognition ceremonies are being planned for both teams. He congratulated Sheriff Mullendore and his staff for organizing the new youth court and stated that he feels it

will be successful. Commissioner Kercheval informed the Commissioners that he participated in the City of Hagerstown's Augustoberfest and noted that it was the most successful event held to date. He stated that he is still receiving calls in opposition to the Board of Education's new transportation policy and indicated that he wants to follow-up with that issue.

Commissioner Aleshire stated that he attended a community meeting at Beaver Creek regarding the proposed development at that location and provided general information to the citizens.

Commissioner Barr stated that he attended Augustoberfest. He reviewed the events being planned to recognize the Federal Little League Team and Hagerstown Pony League team and stated that a parade is tentatively being scheduled for September 6. He apologized for the lack of notification to the Commissioners regarding the ceremony held at North High last week to welcome the Federal Little All-Star League Team back to Hagerstown and stated that plans were made very quickly.

REZONING APPLICATION RZ-08-001 - BOWMAN CAVETOWN, LLC

Kirk Downey, Assistant County Attorney, informed the Commissioners that the applicant for RZ-08-001 requested this morning that consideration of this rezoning matter be postponed. After discussion, it was the consensus to approve the request to postpone discussion of this rezoning case. John Martirano, County Attorney, stated that it is the Commissioners' decision as to when this item is placed back on the Agenda for discussion and decision.

PENSION VALUATION - APPROVAL TO REQUEST

William Sonnik, Director of Human Resources, indicated that a formal vote from the Commissioners stating that they would share in the costs of the actuarial valuation for the City of Hagerstown employees who are being consolidated with the County's 911 Department is required by the State

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Retirement and Pension System before they begin work. Mr. Sonnik stated that the cost is \$300 per hour and estimated that it would take approximately 10-12 hours for the pension valuation. He stated that the funds could be taken from the Human Resources Department's budget.

Motion made by Commissioner Kercheval, seconded by Baker, to share equally in the cost with the City of Hagerstown to have an actuarial valuation performed by the State Retirement and Pension System for the employees entering County retirement system through the consolidation of the 911 departments. Unanimously approved.

BID AWARD - VIRGINIA AVENUE SEWER REPLACEMENT & BUDGET TRANSFER

Motion made by Commissioner Wivell, seconded by Aleshire, to award the contract to replace the sewer line on Virginia Avenue under emergency purchasing provisions to Marona Construction Company, which submitted the low responsive, responsible bid of \$350,130, with funding to be taken from existing project funds by transferring \$200,000 from FY 09 CIP Inflow & Infiltration Rehabilitation, \$86,000 from the Halfway Inflow & Infiltration Project, and \$65,000 from the Sewer Contingency Fund. Unanimously approved.

APPOINTMENT TO REPLACE MEMBER - SALARY STUDY COMMISSION

Motion made by Commissioner Baker, seconded by Kercheval, to approve the appointment of Peggy Bushey to the 2008 Salary Study Commission as a representative of the Cumberland Valley Associated Builders and Contractors, Inc. to replace Jef Bohn. Unanimously approved.

JFK 50 MILE ULTRA-MARATHON

Mike Spinnler, JFK 50 Mile Ultra-Marathon Director, and Tom Riford, Executive Director of the Hagerstown-Washington County Convention and Visitors Bureau, appeared before the Commissioners to provide a report on the JFK 50 Mile Ultra Marathon. Mr. Riford stated that participants come from all over the world for this event and that over 2,600 hotel room overnight stays are generated in the County that weekend.

Mr. Spinnler provided an update to the Commissioners. He stated that the event was filled in 22 days and that there

will be participants from all 50 states, all branches of the military and several foreign countries. He stated that the winner of the race will also be part of the USA World Cup Team. Mr. Spinnler informed the Commissioners that the JFK Foundation will make a donation to the Wounded Warrior Project and the Appalachian Trail Conservancy from the proceeds from the event. Mr. Riford estimated the local economic impact of the race to be between \$350,000 and \$500,000. Mr. Riford stated that the Commissioners assisted with a donation of \$2,500 last year as a match to the CVB support to provide for police and emergency services assistance for the race and asked that they consider funding again this year. He stated that the funds could be paid through the County's share of hotel rental tax.

Motion made by Commissioner Wivell, seconded by Kercheval, to reimburse the overtime costs for the Sheriff's Department and emergency services for the JFK 50 Mile Ultra-Marathon. Unanimously approved.

Motion made by Commissioner Wivell, seconded by Kercheval to amend the previous motion to include the provision that funding for the Sheriff's Department and emergency services for the JFK 50 Mile Ultra-Marathon be taken from the County's portion of Hotel Rental Tax. The motion to amend the prior motion was unanimously approved.

Commissioner Barr presented Mike Spinnler with a proclamation commending the JFK 50 Mile Organization for the positive impact of the race on County residents. The Commissioners recognized it as the largest, oldest, and most prestigious athletic event of its kind.

CITIZENS' PARTICIPATION

Samuel Hawbaker and Sandy Leatherman, neighboring property owners who live off the Greencastle Pike, appeared before the Commissioners regarding a neighbor who they feel is misusing his property. Mr. Hawbaker stated that the neighbors have turned their property into a

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racecourse and are racing motocross bikes and ATVs at high rates of speed. They also expressed concerns about noise and trespassing onto surrounding properties. Mr. Hawbaker indicated that he and fellow neighbors have been working with the County Permits & Inspections Department which is actively pursuing the issue. They informed the Commissioners that they would be presenting a petition to the Permits & Inspections Department outlining their concerns. Andrew Wilkinson, Assistant County Attorney, indicated that based on the information presented this morning it appears this is a private issue between property owners and that the County has no standing to get involved. He advised them to discuss these issues with their attorneys to pursue private action. Mr. Hawbaker and Ms. Leatherman requested asked that the County entertain enacting a noise ordinance or amending its subdivision ordinance to deal with these types of issues in the future.

Phil Physioc spoke to the Commissioners about a lawsuit filed by the County relating to property located in the Mt. Aetna area. Andrew Wilkinson, Assistant County Attorney, advised Mr. Physioc that this is an ongoing legal issue and therefore the Commissioners cannot respond to his questions.

COUNTY ADMINISTRATOR'S COMMENTS

Greg Murray, County Administrator, requested approval of a budget transfer of \$31,000 from the Agricultural Education Center pole barn project to the Agricultural Center Museum Building #2 for parking lot improvements. Mr. Murray stated that he is making this request after being notified that funding for this project was awarded by the Gaming Commission.

Motion made by Commissioner Aleshire, seconded by Kercheval to approve the request to transfer \$31,000 from the Agricultural Education Center pole barn project to the Agricultural Center Museum Building #2 for parking lot improvements. Unanimously approved.

Mr. Murray informed the Commissioners that there are three firms that would be making presentations on green initiatives and ways to reduce the County's overall costs for energy.

BID AWARD - SAN MAR ROAD DRAINAGE PROJECT

Motion made by Commissioner Kercheval, seconded by Baker, to award the contract for the San Mar Road Drainage Project to Wastler Construction, Inc., which submitted the low responsive, responsible bid of \$228,585. Unanimously approved.

BID AWARD - DEVILS BACKBONE PARK PEDESTRIAN BRIDGE REPLACEMENT PROJECT AND BUDGET TRANSFER

Motion made by Commissioner Aleshire, seconded by Wivell, to award the contract for the Devils Backbone Park Pedestrian Bridge Replacement Project to Lonestar Builders, Inc., which submitted the low responsive, responsible bid of \$142,541.95 plus Alternate No. 1 of \$12,290 for a total bid of \$154,831.95 and to approve a budget transfer of \$19,654.44 from the San Mar Road Drainage Improvements Project to this project to address the deficit. Unanimously approved.

MIHI'S PROJECT LIFESAVER

Bill Beard, Executive Director of MIHI, and Lynn Deibert, Project Lifesaver Coordinator, appeared before the Commissioners to provide information regarding Project Lifesaver. Mr. Beard explained that there are six autistic children in Washington County who wear a transmitter with a unique frequency which allows them to be retrieved quickly through emergency services personnel if they wander off and are lost. He stated that they would like to expand the program this year to include seniors with dementia. Mr. Beard stated that they were having difficulty locating an insurance firm that would provide liability coverage; however, a company has been located that will provide this coverage. The meeting was opened for discussion. Commissioner Aleshire requested that representatives of the Sheriff's Department and Emergency Services Department meet with MIHI personnel to discuss the viability of participating in the program.

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RECESS - LUNCH

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

AFTERNOON SESSION

The afternoon session was called to order at 1:27 p.m. by President John F. Barr with the following members present: Commissioners Kristin B. Aleshire and James F. Kercheval. (Commissioner Baker was absent from the Afternoon Session.)

CONVENE IN CLOSED SESSION

Motion made by Commissioner Kercheval, seconded by Aleshire, to convene in closed session at 1:27 p.m. to consult with staff about pending or potential litigation and to consult with counsel to obtain legal advice, 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 1:58 p.m. Unanimously approved.

In closed session, the Commissioners consulted with staff about pending or potential litigation and consulted with counsel to obtain legal advice. Present during closed session were Commissioners John F. Barr, Kristin B. Aleshire and James F. Kercheval. Also present at various times were Gregory Murray, County Administrator; John Martirano, County Attorney; Andrew Wilkinson, Assistant County Attorney; Joni Bittner, County Clerk; Joe Kuhna, Real Property Administrator; and Rob Slocum, Deputy Director of Public Works for Capital Projects.

**MEMORANDUM OF AGREEMENT WITH DEPARTMENT OF SOCIAL SERVICES
- HOPEWELL EXPRESS TRANSPORTATION PROJECT**

Motion made by Commissioner Kercheval, seconded by Aleshire, to approve the Fiscal Year 2009 Memorandum of Agreement between the Maryland State Department of Human Resources, the Washington County Department of Social Services, and the Board of County Commissioners to accept grant funding to continue the Subscription Employment Transportation known as the Hopewell Express to continue to provide transportation services to low-income workers in

outlying areas of the County to employment facilities along the Hopewell Road corridor. Unanimously approved.

PROCLAMATION -DISABLED AMERICAN VETERANS FORGET-ME-NOT MONTH

Commissioner Barr presented a proclamation to Anthony Pruchniewski and Bob Sandberg, representing the Washington County Disabled American Veterans (DAV) Chapter 14, proclaiming the month of September 2008 as "Disabled American Veterans Forget-Me-Not Month" in Washington County and encouraging all citizens to join in their support of those who gave of themselves to protect and preserve our way of life.

PUBLIC HEARING - PRIORITY RANKING FOR MARYLAND AGRICULTURAL LAND PRESERVATION PROGRAM

The Commissioners convened a public hearing at 2:05 p.m. in order to consider the priority rankings for properties applying to sell FY 2009 easements through the Maryland Agricultural Land Preservation Program (MALPP). Eric Seifarth, Land Preservation Administrator, and Sara Edelman, Land Preservation Planner, stated that the Agricultural Land Preservation Advisory Board ranks properties for the MALPP based on established criteria. Mr. Seifarth reviewed the changes adopted by the Commissioners in the priority ranking system. He stated that, due to the reduced amount of State funding, the Advisory Board is recommending the submission of only the top 10 ranked applications to the State. He indicated that they would purchase as many easements as possible with the available funding. Ms. Edelman reviewed the categories in the ranking system and the properties. Commissioner Aleshire corrected his statement that appeared in the local newspaper last week and indicated that it should have stated that he feels the ranking system does not provide equal opportunity for all properties when 25 points are given on the proximity to another easement. The meeting was opened for public comment. Dana Moylan Wright, attorney for Kenneth Thomas, stated that she objects to the inclusion of this property as it is part of an on-

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going divorce proceeding and that this easement could affect the fair market value of the property. Mr. Seifarth presented a letter from Don and Carol Johnson to be entered into the record. The public hearing was closed at 2:13 p.m.

Motion made by Commissioner Kercheval, seconded by Aleshire, to approve submitting the following 10 applications as ranked by the Agricultural Land Preservation Advisory Board for easement purchase to the Maryland Agricultural Land Preservation Program for FY 2009: 1) Stockslager, 2) Maureen Warner, 3) Myron Martin, 4) Roger Hornbaker, 5) Lisa Leather, 6) Ray and A. Geneva Clark, 7) Beverly Shriver, 8) Verda Winders, 9) Bowman Farms, LLC, and 10) Jay Richard Miller. Motion carried with Commissioners Kercheval, and Barr voting "AYE" and Commissioner Aleshire voting "NO."

CONTRACT AWARD - LANDFILL INSPECTION SERVICES

Motion made by Commissioner Kercheval, seconded by Aleshire, to award the contract for Landfill Inspection Services to the responsive, responsible proposer, Cumberland Geoscience Consultants (CGC), based on its proposal dated August 4, 2008 for the hourly rates as specified: Construction Inspector - hourly rate for straight time - \$40.53, hourly rate for overtime - \$44.50 and Senior Construction Inspector - hourly rate for straight time - \$45.20, hourly rate for overtime - \$49.61, contingent upon registration of the new company name with the Department of Assessments and Taxation. Unanimously approved.

(Commissioner Wivell arrived at 2:20 p.m.)

CONTRACT RENEWAL - JURISDICTIONAL EMS MEDICAL DIRECTOR

Brigitte Heller, Emergency Medical Services Coordinator, appeared before the Commissioners to request renewal of the contract for the Jurisdictional Emergency Medical Services Director for a one-year period. Ms. Heller stated that the contract is with Dr. Vincent Cantone in the amount of \$25,000. She informed the Commissioners that State law requires that each County or jurisdiction appoint a medical director to oversee pre-hospital care. The Jurisdictional

EMS Director also supports Fire and Rescue Communication for emergency medical dispatch protocols.

Motion made by Commissioner Wivell, seconded by Aleshire, to approve the renewal of the contract with Dr. Vincent Cantone to act as Jurisdictional EMS Medical Director for a one-year period from September 1, 2008 through August 31, 2009, for the budgeted amount of \$25,000. Unanimously approved.

ADJOURNMENT - PRESS CONFERENCE TO ANNOUNCE THE PURCHASE OF THE FRIENDSHIP OFFICE BUILDING

The Commissioners adjourned at 2:21 p.m. to attend a press conference in Room 255 at 3:00 p.m. regarding the announcement of the purchase of the Friendship Office Building on the Downsville Pike. Tim Troxell, Economic Development Commission, announced that Vinayaka Mission University America has purchased the facility and surrounding 49 acres. A reception followed to give the Commissioners the opportunity to welcome the new owners.

County Administrator

County Attorney

County Clerk

