

August 4, 2009
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 and William J. Wivell. (Commissioner James F. Kercheval was attending a meeting with Economic Development Commission representatives in Baltimore)

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 - July 28, 2009

Motion made by Commissioner Baker, seconded by Aleshire, to approve the minutes of July 28, 2009. Unanimously approved.

INTRODUCTION OF NEW EMPLOYEES

Debra Peyton, Human Resources Benefits Administrator, introduced nine recently-hired County employees: James Adenhardt and Nicholas Perkins - Sheriff's Detention Officers; Elizabeth Camuti-Carranza - Assistant State's Attorney II; Gregory Spaulding - Deputy Director of Operations, Department of Water Quality; Andrew Repp, Jacqueline Guessford, James Miller, Denise Dillon and Patricia Jacobs - Emergency Communications Specialists, Department of Emergency Services.

CONTRACT RELEASE/AWARD (PUR-1082) ENGINEERING SERVICES REQUIREMENTS

Karen Luther, Purchasing Agent; and Mark Bradshaw, Deputy Director for Engineering Services, Department of Environmental Management, appeared before the Commissioners to recommend the release of John E. Harms, Jr. & Associates, Inc. of Frederick, Maryland from its "stand-by" contract based on its letter of request dated July 1, 2009 (due to bankruptcy), and to award in its place as the fourth "stand-by" contractor, the next responsible proposer, Bucharth-Horn, Inc. of Baltimore, Maryland at its specified unit costs and estimated hours (no minimum or maximum guaranteed.) Ms. Luther stated that the duration of the contract is for a period of two (2) years, with an

option by the County to renew for up to three (3) additional one (1) year periods. The contract is a requirements contract; therefore, services will be utilized on an as-needed basis at the respective hourly unit prices for each discipline with no guarantee of a maximum or minimum number of hours.

Motion made by Commissioner Aleshire, seconded by Wivell to release John E. Harms, Jr. & Associates, Inc. of Frederick, Maryland from its "stand-by" contract based on its letter of request dated July 1, 2009. Unanimously approved.

Motion made by Commissioner Wivell, seconded by Baker to award in its place, the fourth "stand-by" contractor and next responsible proposer, Buchart-Horn, Inc. of Baltimore, Maryland, at its specified unit costs and estimated hours (no minimum or maximum guaranteed.) The motion carried with Commissioners Wivell and Baker voting "AYE" and Commissioner Aleshire voting "NO".

RZ-09-001 - APPLICATION FOR TEXT AMENDMENT TO THE WASHINGTON COUNTY ZONING ORDINANCE

Kirk C. Downey, Assistant County Attorney, requested adoption of an Ordinance to Amend Certain Provisions to the Zoning Ordinance for Washington County, Maryland and to Reenact said Ordinance with Changes Relating to its Text (Text Amendment RZ-09-001.) The proposed amendments focus on updating, correcting, and clarifying language pertaining to various aspects of zoning regulation. The Board of Commissioners provided direction for the final version during its meeting held on July 21, 2009 and the final version is now ready for adoption.

Motion made by Commissioner Aleshire, seconded by Wivell, for approval of Text Amendment RZ-09-001. Unanimously passed. (Ordinance ORD-09-08 is located in the County Commissioners' Office.)

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

Jill Baker, Planning Department Senior Planner, and Kirk C. Downey, Assistant County Attorney, requested a consensus of the Commissioners to grant or deny rezoning application RZ-08-001. Ms. Baker summarized the application by stating

that the property consists of 0.76 acres of land located at 11840 Mapleville Road, at the southwest corner of MD 66 and MD 64. The applicant has requested that the subject property be rezoned from RR- Residential Rural, to BL - Business Local. The Washington County Planning Commission held a public meeting on April 21, 2008 and the County Commissioners held a public hearing on May 19, 2008. A supplemental public hearing was held on June 15, 2009. The Planning Commission recommended approval of the request. The Commissioners discussed the issues surrounding the rezoning request, ultimately concluding that the applicant failed to meet its burden of proving change in the character of the neighborhood or a mistake in the original zoning. Commissioner Aleshire stated that he believes the arguments of significant growth in population in the area and a lessening of residential uses conflict with one another. Commissioner Wivell did not agree with the mistake argument or that there had been a significant change in the neighborhood, noting that only one rezoning had been approved in the last 30 years. It was also noted that the proposed zoning was incompatible with the residential uses of the surrounding properties.

Motion made by Commissioner Aleshire to deny RZ-08-001 for the reasons stated and as outlined in the informational material as it applies to both the argument for change in the character of the neighborhood and for mistake. The motion was seconded by Commissioner Wivell and unanimously approved. President Barr indicated that he would have voted for approval of the applicant's rezoning request.

Mr. Downey stated that based on the Commissioners' action, the County Attorney's Office will prepare the proposed Decision and Findings of Fact and will present them to the Commissioners for adoption at a future meeting.

COMMISSIONERS' REPORTS AND COMMENTS

Commissioner Baker congratulated the Conococheague Little League teams in Williamsport for winning the 9-10 year old and 11-12 year old divisions in the State of Maryland. The 11-12 year old team will advance this week to Bristol, Connecticut. He wished the team the best of luck in the next round of play.

Commissioner Aleshire informed the Commissioners that he attended the meeting of the Keedysville Mayor and Council where two issues were raised; 1) drainage problems since

heavy rains on a property owned by a developer in bankruptcy proceedings, and 2) request for help from the County for repairing significant sidewalk and street damage from the heavy rains.

Mr. Aleshire updated the Commissioners on the status of his efforts and other state and county officials to keep the Sideling Hill Exhibit Center open after a closing date of August 30 was announced by the State due to budget cuts. He was informed that \$53,000 would be needed for operation on a modified schedule to cover salaries through December 2009. He also learned that it is illegal to accept donations from visitors at State Welcome Centers, unless the operation was transferred to another department such as the Parks system. Commissioner Wivell stated that he does not believe it would be fiscally responsible for the County to take on funding the center and should use volunteers if possible. Commissioners Baker and Barr agreed. Commissioner Wivell stated that he had spoken to Hancock Mayor Dan Murphy about the possibility of moving the exhibit portion to Hancock, which may also attract more visitors to the town. It was the consensus of the Commissioners to convey a message to the State that the center may have to close, but they would like to see the opportunity of reopening it again in the future.

Commissioner Wivell brought an issue to the Board's attention relating to an agreement with residents of Kending Lane and Independence Road and the
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Forty West Landfill. He wanted to make the Board aware of the Maryland Department of the Environment's recent position that the agreement between the residents and the County was being violated and that because MDE does not have authority to act in this matter the residents may have to resort to legal action. Commissioner Wivell stated that he hoped the County would review the matter and if possible work something out with the affected residents.

Commissioner Barr reported that he attended an Eagle Scout ceremony for Zachary Puglisi of Troop 20 at Benevola Church in Boonsboro. He thanked Mayor Charles Kauffman, the church, troop members and their families for support. He mentioned that four individuals have Eagle Scout ceremonies this weekend and asked Commissioner Baker to attend in his

absence. Commissioner Barr stated that he recently attended a luncheon and orientation for 126 newly hired Washington County teachers. He also applauded the efforts of CASA for its car/motorcycle fundraiser that had to be cancelled due to inclement weather.

**ANNUAL REPORT AND CERTIFICATE OF MERIT PRESENTATIONS -
WASHINGTON COUNTY GAMING COMMISSION**

James Hovis, Gaming Director, introduced persons in attendance for the Gaming Commission (Commission) presentations: Judith Ferro, Commission Chairperson; Donna Long, Commission Vice Chair; Wayne Taylor, representing Senator Don Munson; Walter Bell, representing the Washington County Delegation; Walter Hansen, appointed by the Delegation to represent the Washington County Club Association; Dan Seiler, appointed to represent the Washington County Commissioners; Larry Kessler, appointed by the Delegation to represent the Washington County Restaurant and Beverage Association; and Wanda McGill, representing Delegate Andrew Serafini. Mr. Hovis informed the Commissioners that in fiscal year 2009, tip jar operators submitted \$2,235,510.40 to the Gaming Fund (a decrease of 14% from FY 2008.) He stated that the Commission received 121 funding applications from 104 separate organizations, totaling \$2,648,119.88.

Judith Ferro presented the Commission's annual report and announced that even in troubled economic times, it was able to distribute \$2,235,510.40. In compliance with State statute, 50% of the funds collected or \$1,117,755.20 was distributed to the Washington County Volunteer Fire and Rescue Association. The remaining \$1,117,755.20 was made available to the Commission for distribution. Ms. Ferro stated that the Commission was able to fund 94 of 121 requests this year even though it was forced to cut 58% from the funding requests.

Mr. Hovis invited some representatives of organizations who were in attendance to address the Commissioners. The representatives thanked the Commissioners and informed them how the funds would be used. Representatives who appeared and spoke were: Robin Roberson, Community Free Clinic; Jody Stock, REACH; Allen Swope and Frank Hoover, Childrens' Safety Village; Barb Jacobs, Western Maryland Hospital Center Auxiliary; Maureen Grove, Girls Inc.; Hannah Cramer, Commission on Aging; Glenn Fishack, Washington County Volunteer Fire & Rescue Association; Marie Byers, Discovery

Station; Buck Browning, Boys and Girls Club; Dave Jordon, CAC; Alecia Sanbower, Big Brothers/Big Sisters; Janet Lung, Breast Cancer Awareness - Cumberland Valley; Jeanne Singer, Friends of Safe Place; Harry Barger, Salvation Army; Shalom Blackly, Teen Pregnancy Coalition; Vicki Sadehvandi, CASA; Loretta Wright, Memorial Recreation Center.

The Commissioners recognized Dan Seiler, outgoing Commission Board member, for his service to the Commission from 2007-09, and presented a proclamation to him. Penny Pittman was unable to appear to receive her proclamation for service. Jim Hovis thanked the Commissioners for supporting the Commission's work.

APPROVAL OF MODIFIED POLICY PR-25 - USE OF OFFICIAL CARS AND EQUIPMENT

Becky Maginnis, Risk Management Administrator, and Brian Overcash, Safety Administrator of the Human Resources Department, presented a modified version of Policy PR-25 regarding official use of County cars and equipment. On June 16, 2009, the County Commissioners approved Policy August 4, 2009

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PR-25, with modifications regarding use of tobacco products and a ban on cell phone texting while driving. These modifications have been addressed in the latest version. In addition, an editing error was corrected to clarify license points required for a marginal MVR. A phrase was also added that ensures that if there is a conflict between the policy and other regulations that the more stringent regulations will prevail.

Motion made by Commissioner Aleshire, seconded by Baker, to approve the changes outlined in Policy PR-25 as presented by Staff. Unanimously approved.

OTHER BUSINESS

COUNTY CLERK - APPOINTMENTS/REAPPOINTMENTS

Washington County Fire & Rescue Communications Advisory Committee -

Motion made by Commissioner Aleshire, seconded by Baker, to reappoint Daniel L. Grove to the Washington County Fire & Rescue Communications Advisory Committee for a second three-year term extending to July 30, 2012. Unanimously approved.

Local Management Board -

Motion made by Commissioner Aleshire, seconded by Baker, to appoint Peter Thomas and Marta Trumble to three-year terms as the two Community Representatives on the Local Management Board, extending to July 30, 2012. Unanimously approved.

Motion made by Commissioner Aleshire, seconded by Baker, to appoint Deena Holder of the Hagerstown Housing Authority, to the Ex Officio voting agency/public agency representative position on the Local Management Board, for a three-year term extending to July 30, 2012. Unanimously approved.

COUNTY ADMINISTRATOR - County Administrator Gregory Murray informed the Commissioners that CSX would be repairing the railroad crossing located at Eastern Boulevard beginning August 17 and continuing through August 19. As a result, Eastern Boulevard will be closed between Security Road and Klick Way during that period. Mr. Murray also advised that due to the Maryland Association of Counties' (MACo) annual convention held in Ocean City, there would be no County Commissioner meetings held for the next two weeks. The next meeting would be held on August 25, 2009.

CITIZENS PARTICIPATION

Walter Williams, President of Conococheague Little League, and Donnie Stottlemeyer, Clerk/Treasurer for the Town of Williamsport, requested funding assistance for the 11-12 year old Little League team that won the Maryland State championship and will be advancing to play in Bristol, Connecticut this week. The Commissioners thanked the gentlemen for working with the youth and wished the team the best of luck but declined to provide any County funds.

OTHER BUSINESS (cont.)

Reports from County Staff - Debra Peyton, Human Resources Benefits Administrator, requested approval to advertise to fill the vacant Motor Equipment Operator I, Grade 6, full-time position in the Highway Department (Southern Section.)

Motion made by Commissioner Wivell, seconded by Aleshire, to approve the request as stated. Unanimously approved.

The Commissioners recessed at 10:43 a.m. to attend the Grand Opening and lunch at the new Sleep Inn and Suites located at 12426 Houck Avenue, Clear Spring, Maryland.

RECONVENE IN CLOSED SESSION

Motion made by Commissioner Aleshire, seconded by Wivell to convene in closed session at 1:40 p.m. to discuss the appointment, employment, assignment, compensation, and/or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; to discuss

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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; and to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, in accordance with Section 10-508 of the State Government Article of the Annotated Code of Maryland. Unanimously approved.

(Commissioner Baker was not present at the afternoon session. Commissioner Kercheval arrived at 2:04 p.m.)

In closed session, the Commissioners discussed the appointment, employment, assignment, compensation, and/or performance evaluation 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; and considered a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State. Present during closed session were Commissioners John F. Barr, Terry L. Baker, Kristin B. Aleshire, James F. Kercheval (at 2:04 p.m.), and William J. Wivell; Gregory Murray, County Administrator; John Martirano, County Attorney; and Vicki Lumm, County Clerk.

DESIGNATION OF WASHINGTON COUNTY MENTAL HEALTH AUTHORITY, INC. AS THE MENTAL HEALTH ADVISORY COMMITTEE FOR WASHINGTON COUNTY

Kirk C. Downey, Assistant County Attorney, and Marshall Rock, Executive Director, Washington County Mental Health Authority, Inc. requested that the Board of Commissioners designate the Board of Directors of the Washington County Mental Health Authority to serve as the County's mental health advisory committee. Mr. Downey explained that the

authority for this designation was authorized, at the request of the Commissioners, by House Bill 349, passed this year by the General Assembly. Pursuant to Md. Code Ann., Health-General, Section 10-308, each county must establish a Mental Health Advisory Committee "to serve as advocate for a comprehensive mental health system for persons of all ages." Mr. Downey further explained that the Washington County Mental Health Authority, Inc. is the "core service agency" in the County for mental health purposes and is the "designated county...authority that is responsible for planning, managing, and monitoring publicly funded mental health services." Marshall Rock stated that two oversight groups are no longer needed as the Mental Health Authority was duplicating some oversight services, four main functions had been taken over by the managed care system, and that fewer funds were available for mental health services, largely due to the fee-for-service model now dominating the provision of mental health services. He advised that the Board is in favor of the designation and its first focus will be to review the mental health plan and budget for the Commissioners. Commissioner Kercheval thanked members of the committee for their work and dedication over the years.

Motion made by Commissioner Kercheval, seconded by Aleshire, to adopt a resolution designating the Washington County Mental Health Authority, Inc. Board of Directors as the Mental Health Advisory Committee for Washington County. Unanimously approved. (Resolution RS 09-11 can be found in the County Commissioners' Office)

FINANCIAL POLICY ADDITIONS AND REVISIONS

Budget and Finance Director Debra Murray appeared before the Commissioners to recommend revisions to financial policies as a result of the Department's annual review process. The Department is recommending two policies for changes/revisions; 1) Budget Amendment and Transfer policy - creation of a new budget amendment form, changing the process for electronic submission, and providing for electronic signatures; and 2) New Development Financing Policy - provides guidance to developers for project financing and establishes procedures for the County and developer for future project development. Ms. Murray stated that a financial developer assisted with the policies. During discussion of the policies, Commissioner Barr and County Attorney John Martirano suggested adding wording to the second policy on page 10, regarding "Annual

Administration Fee" and "Other Fee", to read "fees and charges are subject to change at

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the discretion of the Board of County Commissioners." Commissioner Kercheval also suggested changing the wording on the amount of the "Initial Application Fee" on page 10 to read "the lesser of 5% or \$5,000.00".

Motion made by Commissioner Kercheval, seconded by Aleshire, to approve the two financial policies, 1) Budget Amendment and Transfer Policy - revised, and 2) Development Financing Policy - new, with a few minor changes as recommended by the Board of County Commissioners. Unanimously approved.

Commissioner Kercheval informed the Commissioners that he attended a memorial service for Christopher Lewis, who recently received a proclamation from the Commissioners and had since passed away. He conveyed the family's appreciation to the Commissioners and the community for its thoughts and prayers.

MOTION TO ADJOURN

Motion made by Commissioner Aleshire, seconded by Baker, to adjourn at 3:03 p.m. Unanimously approved.

County Administrator

County Attorney

County Clerk