

November 10, 2009  
Hagerstown, Maryland

The regular meeting of the Board of County Commissioners of Washington County, Maryland was called to order at 9:53 a.m. by Vice President Terry L. Baker with the following members present: Commissioners Kristin B. Aleshire and James F. Kercheval. President John F. Barr was absent from the meeting due to County business.

**MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE**

A moment of silence was observed followed by the Pledge of Allegiance to the Flag by the full assemblage.

**APPROVAL OF MINUTES - October 27, 2009**

Commissioners Kercheval and Aleshire proposed changes to the draft minutes of October 27, 2009 regarding comments made by them during the meeting and Commissioner Aleshire requested time to review his notes. Vice-President Baker stated that approval will be postponed until later in the meeting.

**INTRODUCTION OF NEW EMPLOYEE**

William Sonnik, Human Resources Director, introduced Mark W. Mann, who is moving from a part-time Weigh Clerk position at the Washington County Landfill to a full-time Motor Equipment Operator position at the Highway Department's Western Section. The Commissioners welcomed Mr. Mann and wished him well.

**PRESENTATION OF THE JUNE 30, 2009 AUDITED FINANCIAL STATEMENTS**

William Seymour, Audit Partner for SB & Company, LLC presented a report of audited financial statements on the fiscal condition of the County as of June 30, 2009. He provided a PowerPoint presentation and stated that the report contains management discussion and analysis, government-wide statements, fund statements, footnotes, and required supplementary information. Mr. Seymour announced that the audit was unqualified (clean) and that there was no indication that the County would be receiving a downgrade in its rating by Moody's. He stated that fraud is a "hot button" issue in today's economy, but this type of audit is not designed to capture all instances of fraud. However, he noted that no instances of fraud were observed during the audit. Mr. Seymour noted that the County ended

the year with a fund balance of approximately \$128 million which is a \$3.9 million increase over the prior year. Commissioner Kercheval requested an explanation of the fund balance figure so that citizens know it is not just money "sitting around." Mr. Seymour explained that the funds are reserved, restricted or designated, in other words "spoken for." Debra Murray, Finance Director, and Mr. Seymour answered questions from the Commissioners. Mr. Seymour thanked the County's Finance Department and Staff for its full cooperation during the audit. County Administrator Greg Murray commended the fiscally conservative policies used by the County during the past years.

(Commissioner Wivell arrived at 10:19 a.m.)

#### **APPROVAL OF MINUTES - October 27, 2009 (continued)**

Vice President Baker asked whether Commissioner Aleshire was ready to discuss his proposed changes to the draft minutes of October 27, 2009. Clerk Vicki Lumm read the changes requested by Commissioner Aleshire. Commissioner Wivell stated that he felt all comments made during the meeting by Commissioners need not be included in the minutes. A motion was made by Commissioner Kercheval, seconded by Aleshire, to approve the minutes of October 27, 2009, after being amended to include the requested comments of Commissioners Aleshire and Kercheval, if the Clerk listens to the meeting tape and ascertains that the statements were made. If there is a discrepancy, the Clerk will address it at next week's meeting. The motion passed with Commissioners Aleshire and Kercheval voting "AYE" and Commissioner Wivell voting "NO".

#### **CITIZENS PARTICIPATION**

Jim Devine appeared and commented on several issues: 1) Audit report - regarding the County's expenses for electricity and energy and why it was not promoting or developing more solar energy uses, especially in the school system; 2) Fire alarms - being sounded during the night,

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especially in Clear Spring. He would like restrictions on night alarms; 3) Fingerprinting - he felt that the Sheriff's Department should be allowed to take the fingerprints of all persons arrested to keep on file; 4) Traffic fines - he believes that police departments should

be allowed to keep a portion of traffic fines collected to use for operations; 5) Hate Crimes Bill recently passed - he feels that it is not being taken seriously; and 6) that more should be done to train and provide employment for the homeless.

Vice President Baker informed Mr. Devine that a windmill is being added to the Washington County Technical High School and some classrooms are being built using green methods. Commissioner Kercheval mentioned that a new building at Hagerstown Community College (HCC) will be using a wind turbine to provide power, a local company is planning a major solar installation project, and the landfill is looking into collecting methane gas for energy use. County Administrator Greg Murray noted that the new school planned for the County will use a geothermal system and the landfill is looking into a partnership with a company that will provide solar panels to provide energy and share in the revenue for electricity generation. Mr. Murray also said that a stimulus money grant has been received to study and implement energy efficiency in the County's downtown office buildings.

**OTHER BUSINESS:**

Appointment/Reappointment - Solid Waste Advisory Committee  
Motion made by Commissioner Kercheval, seconded by Wivell, to appoint Norma Emery to a second, three-year term on the Solid Waste Advisory Committee, extending to November 30, 2012; and to appoint David Hanlin to a first, three-year term on the Committee, extending to November 30, 2012. Unanimously approved.

County Administrator's Comments

County Administrator Greg Murray announced the results of the 2009 United Way/Community Health Charities campaign and thanked Kathy Kroboth for serving as chairperson. A total of \$79,134.62 was pledged by County employees - \$60,700.11 to the United Way and \$18,434.00 to Community Health Charities. He noted that two individuals pledged over \$1000.00 and that donations were up from 2008 when approximately \$60,000.00 was pledged. He thanked County employees for the great response, stating that the Airport, Permits and Inspections Department, County Commissioners/Administrator's Office, and the Human Resources Department had 100% participation.

Mr. Murray announced that two recent grants were received by the County: 1) Community Development Block Grant of \$100,000.00 to be administered through the Hagerstown Neighborhood Development Program (HNDP) and Washington County for housing counseling programs administered by the Department of Housing and Community Development Neighborhood Revitalization Program; 2) Program Open Space (POS) Funding of \$500,000.00 to be used toward the expansion of the Eastern Primary School Gymnasium to an enlarged size to accommodate evening activities through the Recreation and Parks Department.

Commissioner Baker wished to publicly thank former Commissioner Gregory Snook for his work with the United Way Campaign this year and also Kathy Kroboth for coordinating the County government campaign.

#### Reports from County Staff

William Sonnik, Human Resources Director, requested permission to advertise to fill two Senior Plant Operator positions, Grade 10, at the Department of Water Quality, due to the departure of two employees. Julie Pippel, Director of Environmental Management, stated that a needs analysis review was performed using several measures to gauge the number of employees required to operate the facility 7 days per week and 365 days per year. The study showed the need for 7 1/2 employees and the plant is now down to 5.

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Motion made by Commissioner Wivell, seconded by Aleshire, to approve advertising to fill the two open positions as presented. Unanimously approved.

Joe Kroboth, III, Public Works Director, noted that the South County Public Communications site will have a balloon test performed this Friday, November 13 that will last until approximately 3-4 p.m. with a rain date of November 20. The Herald-Mail and all persons who have submitted previous comments have been advised. Mr. Kroboth described the next steps toward site approval and that a public hearing would be scheduled for January or February 2010.

Mr. Kroboth stated that two workshops are planned for review of the proposed Stormwater Ordinance, the first being November 17. He advised the Commissioners that first draft notebooks were placed on their desks and were also sent to developers and engineers. The plan is to schedule a second workshop after two weeks and then meet with developers, engineers, and interested parties to obtain feedback. Mr. Kroboth said that revisions would be made through January 2010, a public hearing would be held, and that the ordinance must be in effect by May 4, 2010.

Mr. Kroboth discussed the ongoing traffic conditions at Eastern Boulevard and Chartridge Drive, the improvement measures that were been made, and the data that was collected over the past few years. He stated that since May 2009, six accidents occurred in the area, and three were at the immediate intersection location. He noted that in comparison, three accidents were also reported during that period at the Eastern Boulevard/Jefferson Boulevard intersection. Residents in the Chartridge Drive area have advised of other incidents that were not formally reported to authorities. Mr. Kroboth said that the Maryland State Highway Administration issues a report identifying high accident locations, and generally speaking, most accidents occurred within the City of Hagerstown limits or on the interstate highway system. The County faired pretty well with accident numbers according to the report. Mr. Murray advised that the issue will be discussed with the City at a joint meeting to be held on November 17.

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

Commissioner Kercheval requested that an update on plans for the Senior Center be scheduled soon. Greg Murray stated that it would be placed on the agenda after certain cost estimates are received in the next few weeks. Mr. Kercheval informed those present that he attended the Economic Summit last week where excellent information was available. It was noted that a slower economic recovery is expected. He commended the City for its Partners in Economic Progress program and mentioned that an article regarding it was published in the Gazette newspaper. He felt that the County should revisit its own Economic Boost program. In honor of Veterans' Day tomorrow, Commissioner Kercheval thanked all veterans in the community, their families, and active military personnel, noting that several events are scheduled and he will be in attendance.

Commissioner Aleshire apologized for missing the Williamsport Mayor and Council meeting held last evening. He noted that he received an invitation to the City of Hagerstown's Boards and Commissions luncheon and felt that the County should consider something similar to show appreciation to those citizens who volunteer their service. Commissioner Aleshire attended a forum for the League of Women Voters and the Teen Pregnancy Prevention Coalition meeting. He was present at the Hickory Elementary School PTA meeting. He mentioned that he attended a Commission on Aging meeting where a consultant spoke on transit issues and some good ideas were discussed. Mr. Aleshire referenced a letter received from the Chamber of Commerce regarding County funding for the proposed City parking deck. He also noted a letter received from Kevin Lewis, Department of Emergency Services Director, regarding the meeting scheduled this Thursday evening to discuss the Phase One Plan implementation, and stated that he would be present. County Administrator Greg Murray said that all parties have been invited, and confirmation was received from the Volunteer Association. Mr. Aleshire stated that he has recently been provided copies of letters from several

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EMS companies withdrawing their support for the plan and that he will be seeking the guidance of County Staff as to whether the letters can be shared with the public. He asked whether the recycling discussion would be continued and Greg Murray stated that it will be placed on the agenda in a few weeks after all requested information was gathered. Mr. Murray informed the public that the Phase One meeting would be held at HCC's Kepler Theatre starting at 7:00 p.m., and that information was sent to the emergency companies for review prior to the meeting and most had confirmed their attendance.

Commissioner Wivell wished to thank all veterans for their service in honor of Veterans' Day. He advised that the Water Quality Advisory Board met last evening and discussed budget funding, which was on track. The interconnector project between the City of Hagerstown and the County was discussed and a recommendation may be made to the Commissioners by the City in a few weeks.

Vice President Baker mentioned that he attended the Parks and Recreation Advisory Board meeting held at the Ag Center, where Marge Peters gave an update on the Rural Heritage Village and held a group tour. He commended the volunteers for the outstanding job done at the village. Commissioner Baker expressed gratitude to the thousands of veterans who have fought and died for our freedom and encouraged all citizens to observe Veterans' Day in some manner tomorrow.

Glenn Fishack, President of the Washington County Volunteer Fire and Rescue Association (WCVFRA), commented from the audience that Director Lewis and the Chairman of the Emergency Services Committee (EMS) met last Friday with the WCVFRA (the EMS Council could not attend) and came to an agreement that is now being written regarding the Phase One Plan. He expressed the opinion that things will work out positively. Greg Murray stated that the meeting would still be held on Thursday so that all issues can be discussed in an open forum.

#### **FOREST CONSERVATION ORDINANCE**

Mike Thompson, Planning Director, and Bill Stahoviak, Environmental Planner, presented a revised Forest Conservation Ordinance and amendment of fees applying to the Ordinance. Mr. Thompson noted that the items requested by the Commissioners were included when resubmitted to the State of Maryland, and its concurrence has been received. Commissioner Kercheval and the County Staff discussed various language used in certain sections of the revisions. The Commissioners questioned their inability to impose certain fines, and the amount of the fine for non-compliance. Commissioner Aleshire stressed the importance of including an enactment date so that citizens will be informed as to when these revisions will become effective.

Motion made by Commissioner Aleshire to approve the Forest Conservation Ordinance with the inclusion of "E" on Page 36 under Article 10, Section 10.1 to include the language as provided by the County Attorney with the effective date being January 1, 2010. The motion died for lack of a second.

#### **CONSERVATION RESERVE ENHANCEMENT PROGRAM**

Eric Seifarth, Rural Preservation Administrator and Sara Edelman, Land Preservation, Planning Department, appeared before the Commissioners regarding the Conservation Reserve

Enhancement Program (CREP). Mr. Seifarth provided background information on the CREP program through the Department of Natural Resources (DNR) that allows landowners to voluntarily enter into an agreement to be paid for giving up use of their land for a permanent stream buffer. He stated that \$12,500,000.00 is available through State and Federal government monies for the program. The County would receive 3% for administration costs. Ms. Edelman stated that a minimum of \$1,923.00 per acre and a maximum of \$3,846.00 per acre would be paid to landowners who chose to enter into the program. She stated that Dave Herbst and Elmer Weibley are supportive of the program. Mr. Seifarth noted that several applicants are now waiting to apply.

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Motion made by Commissioner Kercheval to approve the MOU between the County Commissioners and the DNR to establish an option for landowners to protect stream buffers and erodible land with permanent easements through CREP. Commissioner Wivell stated that he has no problem with the program but plans to abstain from voting due to his employer's current involvement in the CREP program. Commissioner Aleshire recommended that the item be delayed until next week. The motion died for lack of a second.

Vice President Baker relinquished the chair to Commissioner Wivell, who asked if there was a motion to be made regarding the CREP program. Motion made by Commissioner Kercheval, seconded by Baker, to approve the MOU between the County Commissioners and the DNR to establish an option for landowners to protect stream buffers and erodible land with permanent easements through CREP. Commissioner Aleshire commented that he was not opposed to the program but felt there must be a limit to the process of borrowing for protective initiatives using public dollars. Commissioner Wivell noted that he was surprised the State would derive the money from bonds. The motion passed with Commissioner Kercheval and Baker voting "AYE", Commissioner Wivell "ABSTAINING", and Commissioner Aleshire voting "NO".

Commissioner Wivell returned the chair to Vice President Baker.

**RECESS**

The Commissioners recessed at 12:08 p.m. for lunch.

**AFTERNOON SESSION**

Vice President Terry L. Baker called the afternoon session to order at 1:39 p.m., with the following members present: Commissioners Kristin B. Aleshire, James F. Kercheval and William J. Wivell.

**TAX SET-OFF**

Greg Murray, County Administrator, presented the discussion of how to implement the process of converting from a tax rebate method to municipalities to a tax differential method. Mr. Murray explained that since the mid 1980s, Washington County has provided municipalities within its corporate boundary a tax setoff in the form of tax rebates. Over time, this method has become antiquated, does not truly address double taxation directly to the citizens, and does not clearly define core government services. He mentioned that State law does not require a tax setoff and distributed a comparison of methods worksheet. The Commissioners discussed the issues concerning implementation and whether to proceed immediately or use a phase-in period. Commissioners Kercheval and Wivell felt that a phase-in period was not necessary. Commissioner Aleshire felt that the municipalities would expect a phase-in period and asked Mr. Murray what the response was to letters of notification previously sent to the towns. Mr. Murray stated that he has not received any specific feedback from the letters but has met with several representatives from the City of Hagerstown. It was the consensus of the Commissioners that the change from the tax setoff method was the right way to move and should be discussed with the City at the joint meeting scheduled for November 17.

Motion made by Commissioner Wivell, seconded by Kercheval, to move forward to adopt a tax rate differential method beginning in 2010-2011. Commissioner Aleshire felt that the Commissioners should wait for additional input from the towns. Commissioners Wivell and Kercheval said that the tax differential vote should be taken now and the implementation could be decided after receiving responses from the towns. The motion passed with Commissioners Wivell, Kercheval, and Baker voting "AYE" and Commissioner Aleshire "ABSTAINING".

**WASHINGTON COUNTY COURTHOUSE RENOVATION CONTRACT**

Joe Kroboth, III, Public Works Director, and Gary Pozzouli, Project Manager, requested approval for two change orders with budget transfers of \$210,731.48 and \$8,181.00 for the Courthouse Renovation Project. Mr. Kroboth provided a history of the project which began in 2004 but took a major change when it was decided to install a prisoner elevator system

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for increased security after the project was underway. The change orders requested by Callas Contractors cover the installation of the prisoner transport elevator and a prisoner entrance ramp, plus an additional access door, repairing an existing block wall in stairway #2 and labeling of doorways needed for security purposes in a secure area of the building. The Commissioners questioned the increase of costs, including construction change directives. Commissioner Wivell asked how the County ended up paying more by not agreeing to an earlier estimate by the contractor. The Commissioners directed Mr. Kroboth to reaffirm Bushey, Feight Morin Architect's (BFM) position whether they are satisfied with the documentation subsequent to its September 14, 2009 letter.

Motion made by Commissioner Aleshire, seconded by Wivell, to approve change Order #80 in the amount of \$8,181.00 for installation of an additional access door, repairing an existing block wall in stairway #2 and labeling of doorways needed for security purposes in a secure area of the building. Unanimously approved.

#### **WASHINGTON COUNTY PLANNING DEPARTMENT - ANNUAL REPORT 2008**

Mike Thompson, Director, and Fred Nugent, Planner, Washington County Planning Department, presented the requested revisions made to the 2008 Annual Report that were suggested by the Commissioners during the November 3, 2009 meeting. Mr. Nugent reviewed the changes and answered questions from the Commissioners. Commissioner Wivell questioned why the Robinwood Drive utility lines were not moved back. Greg Murray advised that he will check on it. It was the consensus to approve moving forward with the document containing the incorporated changes and forward it to the State Planning Department.

#### **YOUTH MERITORIOUS AWARDS - NOVEMBER 2009**

Vice President Baker welcomed the families of the Youth Meritorious Award winners for November 2009 on behalf of the Commissioners. He congratulated Collin Schultz of Clear Spring Middle School and Maria Lincy Rivas of Western Heights Middle School and presented each a certificate of merit and Washington County pin in recognition of their selection by the Washington County Community Partnership for Children and Families (WCCP) for the November 2009 Award. Each student was also presented a \$100 U.S. Savings Bond from the WCCP. The Commissioners commended the students for their leadership, academic and extra-curricular activities.

**CONVENE IN CLOSED SESSION**

Motion made by Commissioner Kercheval, seconded by Aleshire, to convene in closed session at 2:45 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 personnel matters that affect one or more specific individuals; to consult with staff or other individuals about pending or potential litigation; to discuss an investigative proceeding on actual or possible criminal conduct; 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.

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; consulted with staff or other individuals about pending or potential litigation; discussed an investigative proceeding on actual or possible criminal conduct; and consulted with counsel to obtain legal advice. Present during closed session were Commissioners Terry L. Baker, Kristin B. Aleshire, James F. Kercheval and William J. Wivell. Also present were Gregory Murray, County Administrator; Vicki Lumm, County Clerk; John Martirano, County Attorney; Kirk C. Downey, Assistant County Attorney; Andrew F. Wilkinson, Assistant County Attorney; and at various times, Stephanie Stone, WCCP Director; Jim Hovis, Gaming Director; and Kevin Lewis, Director of Emergency Services.

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**ADJOURNMENT**

Motion made by Commissioner Kercheval, seconded by Wivell,  
to adjourn at 3:44 p.m. Unanimously approved.

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County Administrator

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County Attorney

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County Clerk