

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
Tuesday, December 13, 2011**

Present: Commissioner President Francis Jack Russell
Commissioner Lawrence D. Jarboe
Commissioner Cynthia L. Jones
Commissioner Daniel L. Morris
Commissioner Todd B. Morgan
John Savich, County Administrator
Sharon Ferris (Recorder)

CALL TO ORDER

Commissioner President Russell called the business meeting to order at 9:00 am in the Chesapeake Building meeting room, Governmental Center.

ADDITIONS/DELETIONS TO AGENDA

Dept. of Land Use & Growth Management Boundary Line Adjustment Plat for New Leonardtown Elementary School Site was added to County Administrator Time.

APPROVAL OF MINUTES

Commissioner Morgan moved, seconded by Commissioner Morris, to adopt the minutes of December 6, 2011, as written. Motion carried 5-0.

COUNTY ADMINISTRATOR

1. Draft Agenda for January 3, 2012.

2. Dept of Land Use and Growth Management (*Phil Shire, Acting Director*)

Commissioner Morgan moved, seconded by Commissioner Jones, that the Board of County Commissioners, being the owners of the property described as Tax Map 32, Grids 5 and 11, and Parcels 82, 339, and 225, sign the Boundary Line Adjustment Plat as presented, for the purposes of combining the multiple parcels into one and eliminating an access easement through the parcels situated in the center of the property. Motion carried 5-0.

3. Circuit Court (*Teresa Weeks, Senior Legal Assistant*)

Commissioner Jarboe moved, seconded by Commissioner Morgan, to approve and authorize Commissioner President Russell to approve the Family Services Grant Award, Project #MD1220 from the Administrative Office of the Courts, in the amount of \$116,630.75 and the related budget amendment to decrease the project budget revenues and expenses by \$22,834.25 in accordance with the actual agreement/award. Motion carried 5-0.

4. Department of Public Works and Transportation (*George Erichsen, Director*)

Commissioner Jones moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner President Russell to execute the budget amendment to return \$609.00 from the Emergency Equipment Shelter Project (PF 0705) to the FIN12 Account. Motion carried 5-0.

(Allen Settle, Project Manager, Dept. Public Works and Transportation)

Commissioner Morgan moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner President Russell to execute the Modified Project Loan Agreement from the Maryland Department of Natural Resources (DNR), on behalf of the Department of Public Works and Transportation, in the amount of \$435,920 and the related budget amendment decreasing the project budget and increasing the FIN12 Capital Reserve. I further more to authorize staff to schedule the associated Levy Ordinance Public Hearing following the DNR's final approval of the Modified Project Agreement. Motion carried 5-0.

(Jacque Fournier, Transportation Manager; Bobby Cooper, County Highways Manager, Dept. of Public Works and Transportation)

Commissioner Morris moved, seconded by Commissioner Jones, to approve and authorize Commissioner President Russell to execute the LGIT grant application in the amount of \$5,300 for driving simulation training on behalf of the Department of Public Works and Transportation. Motion carried 5-0.

5. Department of Recreation and Parks (*Phil Rollins, Director*)

MOU for Phase VI of the Three Notch Trail

Commissioner Morris asked if consideration was given to complete the trail from California and/or Leonardtown to Lexington Park. He also inquired about funds spent to-date on the planning process for Phase VI.

Commissioner Jarboe suggested the new Commissioners be provided background on Phase VI prior to voting to approve the MOU.

Commissioner Morris moved, seconded by Commissioner Jones, to reschedule voting on the MOU for Phase VI of the Three Notch Trail until more data is provided by Mr. Rollins. Motion carried 4-1. Commissioner Russell voted nay.

6. Office of the County Attorney (*George Sparling, County Attorney*)

Assignment of Certificate of Sale Acquired in 2011 Tax Sale

Commissioner Jarboe asked if the property comes with transferable development rights. Legal will research.

Commissioners agreed to reschedule this issue for January 3, 2012, to allow Mr. Sparling time to research further and to provide additional information.

7. County Administrator (*John Savich*)

Commissioner Morris moved, seconded by Commissioner Morgan, to appoint the following persons to Boards, Committees, or Commissions with the terms to expire as indicated:

(1) Adult Public Guardianship Review Board

Richard Lord (Lay Person / Partial)	12/31/2013
Judith Schauf (Lay Person / Reappointment)	12/31/2014
Kathleen Werner (Lawyer / Reappointment)	12/31/2014
Thomas Stokel (Disable Community Rep / Reappointment)	12/31/2014
Julie Ohman (Disabilities Field Professional / Reappointment)	12/31/2014

(2) Agriculture, Seafood and Forestry Board

Phil Dorsey (Real Estate Rep / Partial term)	12/31/2013
John Parlett (Real Estate Rep)	12/31/2014
Adam Dyson (Non-Ag Representative / Partial Term)	12/31/2013
Heather Kantor (Non-Ag Representative)	12/31/2014
Joseph Wood (Ag Rep / Reappointment)	12/31/2014
Robert Jarboe (Ag Rep / Partial Term)	12/31/2013
James "Bubby" Norris (Ag Rep / Partial Term)	12/31/2013
James Moore (Ag Rep)	12/31/2014
David Paulk (Ag Rep)	12/31/2014
Ben Beale (UMD Rep)	Ex-Officio
Donna Sasscer (DEDC Ag Rep)	Ex-Officio
Bruce Young (Soil Conservation Rep)	Ex-Officio

(3) Airport Advisory Committee

A.H. Richardson (Reappointment)	12/31/2014
James Pappas (Primary Seat / Partial Term)	12/31/2013
Regan Hanson (Alternate Seat)	12/31/2014

(4) Board of Trustees, Museum Division

Lynn Fitrell (Partial Term)	12/31/2012
Patricia Friend (Partial Term)	12/31/2015
George Kennett (Partial Term)	12/31/2015
Laura Wigginton	12/31/2016

(5) Commission for People with Disabilities

Susan Erichsen (Reappointment)	12/31/2015
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(6) Commission on Aging

Crystal Menear	12/31/2014
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(7) Community Health Advisory Committee

Laine Doggett (Term Extension)	12/31/2013
Larry Polsky (Term Extension)	12/31/2013

(8) Family Violence Coordinating Council

Christy Chesser (District Court Rep)	Ex-Officio
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(9) Historic Preservation Commission

George Donely (Reappointment)	12/31/2014
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(10) Library Board of Trustees	
Joan Springer (Reappointment)	12/31/2016
Carolyn Guy (Reappointment)	12/31/2016
(11) Metropolitan Commission	
Richard Mueller (District 4 /5 Rep)	12/31/2014
David DeMauro (District 6 Rep)	12/31/2014
Steve Willing (District 8 Rep)	12/31/2014
(12) Planning Commission	
Patricia Robrecht (Partial Term)	12/31/2012
Howard Thompson (Partial Term)	12/31/2014
(13) Recreation and Parks Advisory Board	
Richard Buckler (Reappointed)	12/31/2015
Thomas Nelson (Reappointed)	12/31/2015
Phillip Cranford (Partial Term)	12/31/2014
(14) Tri-County Animal Shelter	
Lynda Andrus (Partial Term)	12/31/2014
(15) Tri-County Community Action Committee	
Richard Lord	12/31/2014
(16) Wicomico Shores Golf Course Advisory Board	
David Phalen (Rec & Park Board Rep / Partial Term)	12/31/2013
Everett Cooper (Alternate Member)	12/31/2015
Thomas Schumacher	12/31/2015
(17) Zoning Board of Appeals	
Ronald Ray Payne, Sr. (Primary Seat)	12/31/2014
Mike Mummaugh (Alternate Seat)	12/31/2014
George Allan Hayden (Partial Term)	12/31/2013
Robert Moreland (Partial Term)	12/31/2013

Motion carried 5-0.

BOCC TAKES POSITIONS ON 2012 LEGISLATIVE PROPOSALS

Present: George Sparling, County Attorney; and David Weiskopf, Deputy County Attorney

The Commissioners took positions on the 2012 Legislative Proposals as noted below. Positions will be forwarded to the St. Mary's County Delegation for their consideration.

#	Proposed by	Support	Oppose	No Position	
1	Board of Education To allow St. Mary's County school buses to be operated for 15 years rather than the current 12 years, provided that the buses meet applicable safety standards.	Morris Jones Russell Jarboe Morgan			
2	St. Mary's County Metropolitan Commission To amend Ch. 113 of the St. Mary's County Code correct the typographical errors, inconsistencies, and ambiguities which were the result of legislative changes effective October 1, 2007, relating to the Commission's rate restructuring; to delete archaic sections; to correct inaccuracies.			Jones Russell Jarboe Morgan Morris	Comm. Jones concerned some items appear to be substantive and require more clarification. Commissioners indicated "support" to correct typographical and other minor items, but asked County Attorney to meet with MetCom to clarify whether three proposed revisions were substantive in nature and report back to the Board on January 3.
3	Delegate John Wood To allow a small distillery in St. Mary's County.	Russell Jarboe Morgan Morris Jones			
4	Department of Economic and Community Development To permit the sale of locally produced Class 4 winery wines at MDA farmers' markets in St. Mary's County.	Jarboe Morgan Morris Jones Russell			

#	Proposed by	Support	Oppose	No Position	
5	<p>Department of Economic and Community Development</p> <p>Request for a Bond Bill in the amount of \$323,513 to complete the State Highway requirements for the Home Grown Farm Market and for the installation of bathrooms and a commercial kitchen.</p>	Jarboe	Morgan Morris Jones Russell		Opposing Commissioners agreed County will not seek bond bill, but will seek Delegation's assistance to request SHA reduce road requirements. County will not seek state funding for bathrooms and kitchen.
6	<p>Department of Economic and Community Development</p> <p>To delete the requirement that three of the five members on the St. Mary's County Land Preservation Advisory Board earn 50% of their income from farming, and to require that three of five members be actively pursuing the production of agricultural products for a profit.</p>	Morris Jones Morgan Russell Jarboe			
7	<p>County Attorney (By request)</p> <p>To provide for the appointment of a Redistricting Board.</p>	Jones Russell Jarboe Morgan Morris			
8	<p>County Attorney (By request)</p> <p>To exempt St. Mary's County from the requirement that real property taxes be paid prior to recordation when real property is transferred to the County.</p>	Jarboe Morris Jones Morgan Russell			

#	Proposed by	Support	Oppose	No Position	
9	<p>County Attorney (By Request)</p> <p>To enable St. Mary's County to grant a property tax credit to a disabled veteran or a surviving spouse.</p>	Morris Jarboe	Jones Morgan Russell		Commissioners who were opposed agreed with the intent of the proposal, but felt that parameters needed to be established (the state's tax credit for 100% disabled veterans was also cited.)
10	<p>County Attorney (By request)</p> <p>To provide for a subtraction from adjusted gross income of \$3,500 under the Maryland income tax for a physician with military experience who relocates to St. Mary's County and treats honorably discharged veterans and their families (added: "as well as the general public").</p>	Morgan Morris Jones Russell Jarboe			All Commissioners agreed that additional language was needed to clarify that physicians would be treating ALL St. Mary's County residents ("as well as the general public" was added).
11	<p>County Attorney (By request)</p> <p>To increase the public accommodations tax (hotel rental tax) rate from 5% to 7.5%.</p>	Morris Russell Morgan	Jones Jarboe		<p>Comm. Jones expressed concern that the revenue estimates were not worth the imposition on businesses and consumers.</p> <p>Comm. Morris indicated he could support, but preferred a lower rate.</p>
12	<p>County Attorney (By request)</p> <p>To allow St. Mary's County to collect a sales and use tax on short-term vehicle rentals.</p>	Russell Morgan	Jones Jarboe Morris		

#	Proposed by	Support	Oppose	No Position	
13	County Attorney (By request) To enable the Board of County Commissioners to grant to a non-profit entity an exemption from the building impact fee.	Russell Jarboe Morris Jones	Morgan		Comm. Morgan expressed concern that the proposed language is too open-ended.

REPORT OF THE INDEPENDENT AUDITOR ON THE FINANCIAL STATEMENTS FOR ST. MARY’S COUNTY FOR FISCAL YEAR 2011

Present: Elaine Kramer, CFO
Desiree Ridgell, Accounting Officer, Dept. of Finance
Lisa Brown, Auditor in Charge of our engagement

Ms. Kramer provided FY2011 financial highlights for the County. As of June 30, 2011, the County’s government funds reported combined fund balances of \$80.3M, an increase of nearly \$10M over the prior year. The general fund reflected an increase of \$13.9M. The capital projects fund reflected a decrease of \$4.8M. The fund balance for non-major funds increased \$765,923. The County’s governmental fund balances at June 30, 2011 includes \$32.1M for capital projects, \$46.5M in general funds and \$1.6M for other non-major funds. The general fund balance includes \$.8M of inventory that is nonspendable. In addition, the general fund reflects assigned designations of approximately \$2.7M which includes encumbrances and a Rainy Day Fund of \$1.625M. The County’s unassigned fund balance is approximately \$30.2M. Maintaining an unassigned fund balance is important at this time because of the uncertainty of State funding allocations, State costs that could be shifted to the County and potential federal downsizing. The County will continue to take a conservative approach on the budget by continuing to focus on expense reduction measures both as a part of budget adoption and also throughout the operational year.

Commissioner Jones moved, seconded by Commissioner Morgan, to accept the report of the independent auditor on the financial statements of St. Mary’s County for Fiscal Year 2011, as presented. Motion carried 5-0.

OFFICE OF THE COUNTY ATTORNEY: PROPOSED RESOLUTION DELEGATING ADMINISTRATIVE AUTHORITY CONCERNING PUBLIC WORKS

Present: George Sparling, County Attorney
George Erichsen, Director, Dept. Public Works and Transportation

In an effort to further streamline government processes, it was recommended that the Director of Public Works be given signature authority for routine administrative actions that would normally come before the Board. Board approvals will continue to be required for the following: (1) acceptance of roads and streets into the St. Mary's County road system; (2) posting of speed limits and traffic control devices; (3) issuance of letters of demand to sureties on account of a default by the obligor; and, (4) acquisition and disposition of fee simple interests in real property.

Commissioner Morris moved, seconded by Commissioner Morgan, to adopt the proposed resolution authorizing the Director of Department of Public Works & Transportation to perform specific administrative acts concerning public works, subject to compliance with County budgetary and fiscal policies, approval of documents for form and legal sufficiency, and the provision of copies of executed documents to the County Administrator. Motion carried 5-0.

DEPARTMENTS OF PUBLIC WORKS AND TRANSPORTATION AND LAND USE AND GROWTH MANAGEMENT: DEVELOPMENT REVIEW STREAMLINING UPDATE

Present: George Erichsen, Director, Dept. Public Works and Transportation
Phil Shire, Acting Director, Dept. Land Use and Growth Management

Mr. Erichsen and Mr. Shire presented several streamlining recommendations, some of which have already been implemented, to assist in the development review process. Initiatives included making pre-application meetings with development applicants voluntary rather than mandatory, reducing duplicative agency reviews, eliminating the multi-tiered process of requiring the record plat to be recorded prior to issuance of the grading and road construction permits, and providing the Director of Public Works and Transportation delegation of signature authority. Other streamlining initiatives are under consideration. Text amendment changes to ordinances affected by the new streamlining processes will be forthcoming.

COMMISSIONER'S TIME

The Commissioners highlighted events attended over the past week.

CALL FOR MOTION TO ENTER INTO EXECUTIVE SESSION:

Commissioner Morgan moved, seconded by Commissioner Jones, to enter into Executive session for the purpose of discussing real property acquisition matter related to FDR Blvd. Motion carried 5-0.

Real Property Acquisition

Present: Commissioner Francis Jack Russell, President
Commissioner Lawrence D. Jarboe
Commissioner Cynthia L. Jones
Commissioner Daniel L. Morris
John Savich, County Administrator
George Sparling, County Attorney
George Erichsen, Director, Dept. of Public Works & Transportation
Donna Gebicke, Recorder

Authority: Article 24, Section 4-210(a)11
Time Held: 12:40 pm – 1:10 pm
Subject Discussed: Real Property Acquisition, (related to FDR Blvd.)

MOTION IN OPEN SESSION

Commissioner Morgan moved, seconded by Commissioner Jones, to direct staff to proceed as discussed in Executive Session regarding property acquisition related to FDR Blvd. Motion carried 5-0.

PUBLIC HEARING: PROPOSED REALIGNMENT OF MORGAN ROAD (COUNTY ROUTE 30173), AND PRESTON COURT – A PROPOSED PUBLIC ROAD SERVING PROPOSED BROYHILL SUBDIVISION

Commissioner Russell opened the Public Hearing at 5:30.

Present: George Erichsen, Director, Dept. of Public Works and Transportation
Jonathan Blasco, P.E., Mehaffey and Associates,

Mr. Erichsen provided an affidavit affirming Public Hearing Postings on November 7, 2011. He also submitted a Certification of Publication and read the notice of public hearing for the Broyhill Subdivision into the record.

Mr. Blasco provided an overview of the 22 planned homes in the proposed Broyhill subdivision which situated on 110 acres abutting the right-a-way on Morgan Road. Connecting the subdivision to Morgan Road requires alteration of the roadway and creating a stopping situation. He displayed a map showing the best concept configuration for the orientation of the sharp turn.

Commissioner Russell opened the Public Hearing for public comments.

Public Comments. (Comments as noted below are intended as highlights of testimony given and are not verbatim.)

Bob Ratzingir, 24610 Morgan Road, Hollywood, MD 20636

- Why take an established community and dump another on into it
- Cannot get out of driveway now with 60 houses past my house
- With an average of 2 cars per household this will add approximately 50 cars
- What's wrong with opening Rd. to McIntosh
- No one in neighborhood in favor

Commissioner Russell asked for a show of hands from the audience of residents that were for or against this project going forward. Vote: Yea(0), Nay (25)

Nathan Salada. 24520 Morgan Road, Hollywood, MD 20636

- Lives at top of hill before you get to new proposed road
- Asked how many homes were going to be built
- If going to build deeper on property you are going be closer to McIntosh as entrance/exit
- Definitely against

Margaret Harless, 25085 Morgan Road, Hollywood, MD 20636

- Concerned with Broyhill subdivision
- Does it mean the subdivision is definitely going in
- How can we stop the subdivision from coming in
- Have you looked at other options to come into the new development like Pappy Way
- All houses prior to the new road have safety issues

Commissioner Russell said the development will have to go before the Planning Commission before it can be started and suggested that would be the time to speak out.

Malinda Frerichs, 24700 Morgan Road, Hollywood, MD 20636

- My house is in the 90 degree turn area, across from where the actual development is gong in
- Wasn't aware there is a separate meeting with planning commission - can we get notice when it
- Will new subdivision be on MetCom
- Will we be forced to hook into MetCom if pipes go down Morgan Rd.
- Will the remainder of Morgan Road be widened
- Will road be under County maintenance once traffic begins
- Is County prepared for additional amount of maintenance that will be required
- Will electric lines be above or below ground
- Commented that County came in tried to put ditch in the turn and now all water drains in her backyard
- Is development going to stop with 22 houses

Commissioner Russell said we will make sure everyone who signed up gets a notice of the Planning Commission meeting on this issue.

Jonathan Blasco responded to some of the questions presented above. In the subdivision process LUGM takes care of the open file so information can be obtained there. If the developer decides to increase the lot count then public utilities would have to be installed. The subdivision when complete will have 22 lots. The developer wanted to come in from McIntosh but there were environmental issues. The new road was designed to new standards and will have a new ditch on both sides. SMECO handles electric not the developer so it is their option the type of lines installed (above ground or below).

Craig Judd, 24755 Vega Ct., Hollywood, MD, 20636

- Stop signs on Morgan Road is going to make it more dangerous
- Can't see why a 3 way stop couldn't be used
- Concerned with number of people and new wells – will it impact water table

Beth Russnogle, 24720 East Montigo Rd., Hollywood, MD 20636

- Unsafe to put corner in
- Concerned everyone will come down East Montigo to get away from Morgan Rd

Darrin Peters, 24700 East Montigo Rd., Hollywood, MD 20636

- Concerned with number of cars backed upon Morgan Rd. to get onto Rt. 245
- At least 120 cars already in development, could be as many as 40 or 50 more entering highway 2 times a day

Marva Cox, 24915 Morgan Rd., Hollywood, MD 20636

- Concerned that more cars/houses will change rural complex of neighborhood
- Several people walk in the neighborhood – there are not sidewalks or streetlight, concerned for their safety with additional traffic

Margaret Harless, 25085 Morgan Road, Hollywood, MD 20636

- You said environmental issues – what are they
- Has a study been done on the water level in the area
- Why not use Pappy Way as an alternate

Steve Boas, 24785 Cougar Ct., Hollywood, MD 20636

- Why not use another route
- Has developer considered using Barnsby Lane next to Dorsey Park
- May cost the County more to do this because improvements will need to be made on Rt. 245 as you turn into Morgan Rd
- Concerned with load limits with huge trucks going through for construction

Commissioner Russell closed the meeting for public comment and advised that the BOCC will receive written public comments on this matter for an additional ten days.

Commissioner Russell closed the Public Hearing at 6:06

PUBLIC HEARING: TO CONSIDER PROPOSED ALTERATION OF A PORTION OF THE RIGHT-OF-WAY KNOWN AS LINCOLN AVENUE AND CONVEYANCE OF A PORTION OF THE SAME TO FIRST MISSIONARY BAPTIST CHURCH IN LEXINGTON PARK

Commissioner Russell opened the Public Hearing at 6:12 pm.

Present: David Weiskopf, Deputy County Attorney
Bill McKissick, Attorney for First Baptist Church

Mr. Weiskopf noted for the record a Posting of Public Hearing affidavit and read the Notice of Public Hearing that was published in *The Enterprise Newspaper* on November 30th and December 6th, 2011. In 1962 the First Baptist Church of St. Mary's County conveyed property to St. Mary's Count to widen Lincoln Avenue. A survey completed at that time showed all structures, including the existing Church to be outside the new right-of-way-line; however a recent survey shows that a portion of the existing church lies within the County's right-of-way. The actual traveled portion of Lincoln Ave is not affected by the encroachment and now representatives for the First Baptist Church of St. Mary's County are requesting that the County convey the encroachment area of the Church back to the Church.

Mr. McKissick explained that the First Baptist Church is in the process of procuring a loan to finance construction of a new church on a different site and the lender requires that the present church be included in the collateral. Settlement on the construction loan cannot be finalized until the portion of the land where the church is sitting is transferred to the Church.

Public Comments. (Comments as noted below are intended as highlights of testimony given and are not verbatim.)

There were no public comments.

Commissioner Russell advised that the BOCC will receive written public comments on this matter for an additional ten days.

ADJOURNMENT

Commissioner Russell closed the Public Hearing and adjourned the Board of County Commissioners meeting at approximately 6:22 pm.

Minutes Approved by the Board of County Commissioners on _____

Sharon Ferris, Senior Administrative Coordinator (Recorder)