

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
GOVERNMENTAL CENTER
Tuesday, February 28, 2006**

Present: Commissioner President Thomas F. McKay
Commissioner Kenneth R. Dement
Commissioner Lawrence D. Jarboe
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley
George G. Forrest, County Administrator
Glenda Dennis, Administrative Assistant (Recorder)

CALL TO ORDER

The meeting was called to order at 9:10 am.

APPROVAL OF CHECK REGISTER

Commissioner Mattingly moved, seconded by Commissioner Raley, to authorize the Commissioner President to sign the Check Register dated, February 28, 2006, as presented. Motion carried 5-0.

APPROVAL OF THE MINUTES

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve the minutes of the Commissioners' meeting of Tuesday, February 21, 2006. Motion carried 5-0.

DEPARTMENT OF LAND USE AND GROWTH MANAGEMENT: Discussion of Proposed Office Business Park (OBP)/Downtown Mixed Use Zoning District (DMX) Text Amendments (*Denis Canavan, Director and Jeff Jackman, Planner*)

Mr. Canavan reviewed the OPB/DMX Zoning Ordinance Text Amendments that were the subject of a County Commissioners' public hearing last spring, but were set aside while the Lexington Park Development District Master Plan was being adopted. The proposed amendments were described as achieving the following:

- establish a threshold density of 10 units per acre in the OBP with the requirement to purchase additional TDRs for density up to 20 units per acre.
- retain the maximum footprint requirements for a commercial structure within the OBP and allow the increase with the purchase of TDRs.
- modify the land uses table in schedule 50.4 as shown in Attachment 1 to the Planning Commission's resolution.

- further modify the OBP lot standards to eliminate the lot width of 100 feet and the lot depth of 200 feet so that the table will read “none.
- increase the base density in the DMX zone to 20 units per acre and accommodate a bonus density up to 10 additional units per acre with the use of TDRs; or
- increase the allowable residential density in the DMX to 30 dwellings per acre and do not require the use of TDRs to attain this density. The Planning Commission preferred this option.

The Commissioners discussed the implications of the proposed amendments, and in particular, the appropriateness of the proposed units per acre and the recommended 49%-51% residential/office split.

Commissioner Raley agreed with Mr. Canavan’s 2nd, 3rd, and 4th point (above), but recommended establishing a threshold density of 5 units per acre in the OBP and requiring purchase of additional TDRs for density up to 15 units per acre, and increasing the base density in the DMX to 10 units per acre. Commissioner Mattingly expressed concerns that the Board should control the number of residential units in the flight area, even though it adjoins and is not actually within the ACUIZ; and that 30 units per acre and 100’ height maximums will not serve to retain our rural character. Commissioner McKay felt there was a good basis for the 49% figure and that an increase in supply in the development district would keep pricing down.

Mr. Canavan will obtain an updated recommendation on the residential/office split from the Department of Community and Economic Development, review all of the percentages in the proposed text amendments, and then bring back legislation for the Commissioners’ review.

STUDENT PRESENTATIONS: African-American History Month

Present: Mrs. Lynne Morgan-Smoot, Supvr. of Instruction for Fine Arts; Lexington Park Elementary School Staff: Ms. Flowers, Vice Principal; Mr. David Cusack, Music Teacher; and Ms. Tammy Tucker, 4th Grade Teacher

Students from Lexington Park Elementary School’s 4th grade class presented the results of their computer research on African-American leaders through music, art and oral reports, and received commendations from the Commissioners.

COUNTY ADMINISTRATOR

1. **Draft Agendas for March 7th, 10th and March 14, 2006.**
2. **Employment Contract (George Forrest)**

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner President to sign the Employment Contract for the new County Attorney, Ms. Christy Holt Chesser. Motion carried 5-0.

It was noted that the term of the contract is March 20, 2006, through June 1, 2007.

3. **Department of Public Safety** (*Tim Cameron, Director; and Michelle Lilly, Emergency Planner*)

Commissioner Mattingly approved, seconded by Commissioner Dement, to approve and authorize Commissioner President to sign FEMA Forms 20-16B and 20-16C for the Pre-Disaster Mitigation Grant Application. Motion carried 5-0.

4. **Department of Recreation, Parks and Community Services** (*Phil Rollins, Director and Debra Pence, Museum Division Director*)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the Maryland Heritage Areas Authority Grant application for the Piney Point Lighthouse Museum and Park in the amount of \$100,000. Motion carried 5-0.

5. **Department of Public Works and Transportation** (*George A. Erichsen, P.E., Director*)

- a. **Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and sign Resolutions to: (1) accept Greens Rest Lane and Greens Rest Way in the Greens Rest Farm Subdivision, Section 2, located in the 2nd Election District, into the County's Highway Maintenance System; (2) post stop signs at said roads, and (3) post 25-mph speed limit signs on said roads. Motion carried 5-0.**

- b. **Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and sign Resolutions to: (1) accept Southern Pines Street and Piney Orchard Street in the Southern Pines Subdivision, located in the 8th Election District, into the County's Highway Maintenance System; (2) post stop signs at said roads; and (3) post 25-mph speed limit signs on said roads. Motion carried 5-0.**

- c. **Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize Commissioner President to sign the Public Works Agreement Addendum for Villages of Leonardtown Subdivision, located in the 3rd Election District with an expiration date of February 1, 2007. Motion carried 5-0.**

- d. **Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize Commissioner President to sign the Public Works Agreement Addendum for Forrest Farm Subdivision, Section 3, Phase 6, located in the 3rd Election District with an expiration date of February 1, 2007. Motion carried 5-0.**

e. Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President to sign the Public Works Agreement for Wild Goose Crest Subdivision, located in the 5th Election District with an expiration date of December 1, 2006. Motion carried 5-0.

f. Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner President to sign Public Works Agreement Addendum for Westbury PUD Subdivision, Section 2, Phase 2, located in the 8th Election District with an expiration date of January 1, 2007. Motion carried 5-0.

g. Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize Commissioner President to sign the Capital Project Grant Agreements between the State of Maryland and the Board of County Commissioners for the PAX River Naval Air Museum and Visitors' Center in the amounts of \$225,000, \$150,000 and \$350,000. Motion carried 5-0.

(Jacqueline Fournier, Transportation Manager)

h. Commissioner Jarboe moved, seconded by Commissioner Raley, to approve and authorize Commissioner President to sign the budget amendment that revises the Public Transportation Technical Study Grant project budget to align it to the budget in the grant award. Motion carried 5-0.

6. Boards and Committees

Commissioner Jarboe moved, seconded by Commissioner Dement to appoint the following St. Mary's County citizens to Boards, Committees or Commissions:

Commission on Aging

Maureen McCarthy Ault

Human Relations Commission

Maureen Johnson

Alternate

Development Review Forum

Robin Guyther

Library Board of Trustees

Alan Dillingham

Zoning Board of Appeals

George T. Edmonds-First

Marcey House

Carol Gallagher

Kevin Lee Grant

Motion carried 5-0.

STATE OF THE COLLEGE OF SOUTHERN MARYLAND REPORT *(Elaine Ryan, President; Joseph F. Shannon, Chair, Bd. of Trustees; James K. Raley, Bd. of Trustees Member; F.J. Talley, Dean, Leonardtown Camps)*

Dr. Ryan presented the State of the College report which included the college's goals, updates on accreditations, campus growth and student demographics, credit and continuing education enrollments, student progress, resource management, capital

projects completed, and plans for the future. Dr. Ryan will be leaving her position and the Board of Trustees expects to have her replacement on board by early summer.

COMMISSIONERS' TIME

Commissioner Jarboe

No comments at this time.

Commissioner Raley

Congratulated the Lexington Park Volunteer Rescue Squad's Installation of Officers. 4,322 calls were answered last year (approx. 12 per day).

Apologized to the Chamber of Commerce for not being able to attend their Legislative Breakfast.

Thanked the 3rd District Optimist Club for asking him to be a judge in their Oratorical Contest. They do many great things for the community.

Attended the Soil Conservation District Annual Cooperator Dinner. Congratulations to "Cooperator of the Year," Friendly Hall Farms, and to Al Stewart who is retiring.

Happy 1st Birthday to Peyton Hamm, his brothers' grandson.

Commissioner Dement

Attended the Soil Conservation District Annual Dinner.

He was also a Judge at the Oratorical Contest sponsored by the 3rd District Optimist Club.

Attended the Lexington Park Volunteer Rescue Squad's Installation of Officers.

Attended the Chamber of Commerce Legislative Breakfast at the JT Daugherty Conference Center.

Commissioner Mattingly

Attended many of the same events already discussed. Also attended the annual Southern Maryland Legislative Reception in Annapolis. Apologies to the Soil Conservation District for not being able to attend their dinner.

Also served as a judge for the 3rd District Optimist Club's Oratorical Contest. Congratulations to the winners. They will go to Ocean City to compete for scholarships.

Congratulated Lexington Park Volunteer Rescue Squad and the incoming and outgoing officers and also to Commissioner Raley on receiving the John Sabola Award for citizenship.

Commissioner McKay

Stated that he presented a proclamation on behalf of the Commissioners to Reverend Brooks for 40 years of service to St. Lukes and St. Marks Churches.

NATIONAL CENTER FOR SMART GROWTH RESEARCH AND EDUCATION, UNIVERSITY OF MD: “REALITY CHECK” *(Co-chairs of the So. Md. Reality Check Leadership Group: John W. Frece, Assoc. Director of the National Center; and Frank Jaklitsch, former Calvert Co. Planning Dir.)*

Mr. Frece and Mr. Jaklitsch briefed the Commissioners on the upcoming “Reality Check” regional, growth visioning events to be held throughout Maryland and in Southern Maryland in the summer of 2006. “Reality Check” is a statewide effort to raise awareness about the level and pace of growth coming to Maryland over the next 25 years. The goal is to encourage the public and elected officials to think regionally or even statewide on how best to accommodate the new growth that is coming. Results of the four regional events will be analyzed and combined into a statewide “vision” for growth that will be discussed at a forum in the fall 2006. The importance of inviting participants to the event that represent all stakeholders was stressed.

SENIOR PROPERTY TAX CREDIT ORDINANCE UPDATE *(Heidi Dudderar, Deputy Co. Attorney)*

Ms. Dudderar reviewed the history of the Senior Tax Credit Ordinance, provided an update on the County’s request to repeal the July 1, 2008, sunset provision from the enabling law (HB 623), and reviewed options regarding the sunset provision. Assistant Attorney General of Maryland Bonnie Kirkland opined in correspondence to Delegate John Bohanan that the Senior Tax Credit program is unconstitutional because the mechanism of the local credit is essentially an assessment freeze, which raises a uniformity issue under Article 15. Ms. Dudderar noted that the County Attorney’s Office does not agree with Ms. Kirkland’s assessment of our local Ordinance and has determined that this credit does not amount to a cap on either assessments or taxation. The County Attorney’s Office is willing to defend the Ordinance and further recommends that the Board request that House Bill 623 be amended to extend, rather than repeal, the termination provision to 2010. The extension would give the Board four years to review and address Ms. Kirkland’s concerns while providing tax relief, as promised, to St. Mary’s County senior citizens.

Commissioner Raley moved, seconded by Commissioner Mattingly to direct staff to prepare correspondence to the Delegation requesting that pending legislation that calls for removal of the Sunset Provision from the Senior Tax Cap program be

changed so that it does not call for removing the provision, but calls for extending the Sunset Provision to 2010. Motion carried 5-0.

Commissioner Jarboe moved, seconded by Commissioner Dement, to direct staff to request that the Circuit Court provide an opinion on the constitutionality of our Senior Tax Credit Program legislation and to request that the state provide us with solutions. Motion carried 3-1. Commissioner Mattingly voted no and Commissioner Raley did not vote.

County Attorney's Office was also directed to prepare recommendations to the Commissioners as to the best way to proceed with the circuit court petition process.

PUBLIC HEARING: TO CONSIDER EXTENDING THE DEADLINE TO APPLY FOR THE SENIOR PROPERTY TAX CREDIT FOR FISCAL YEAR 2006

Ms. Dudderar stated that notice of the public hearing was advertised in the St. Mary's Today newspaper on February 12 and 19, 2006. The purpose of the hearing is to amend Ordinance 2005-10 to extend the FY2006 application deadline for the Senior Property Tax Credit program to on or before April 15, 2006.

The public hearing was opened to comments from the public. Hearing none, the hearing was closed but will remain open for ten days for written comments.

SOUTHERN MARYLAND WORKSOURCE UPDATE (*Ellen Flowers-Fields, Executive Director and David Vollmer, Co-chair*)

Ms. Flowers-Fields provided an update on WorkSource services offered for jobseekers and employers and the resulting economic impact. The state projects a 50% decrease in federal funding for WorkSource activities compared to FY2006. This decrease will result in the elimination of 17 of the current WorkSource services.

The meeting adjourned at 3:57 p.m. It was announced that the Board would reconvene at the public hearing on proposed text amendments at 6:30 pm.

PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE COMPREHENSIVE WATER AND SEWER PLAN (CWSP): (Jeff Jackman, Senior Planner, Dept. of Land Use and Growth Management; Denis Canavan, Director)

Mr. Jackman noted for the record that the public hearing was advertised on February 12 and February 19, 2006, in the St. Mary's today newspaper. The purpose of the public hearing was to receive public comment on proposed Amendments to the Comprehensive Water and Sewerage Plan (CWSP) for Smithfield Place, Case CWSP 05-131-015; and the Weiner Subdivision, Case CWSP 05-110-035)

Smithfield Place

The proposal is to change the service area category from W-6 and S-6 (service in 6 to 10 years) to W-3D and S-3D (service in 3-5 years, developer financed) for 4.7 acres described as Tax Map 51, Grid 18, Parcel 163 in the 8th Election District in anticipation of serving 14 dwellings.

Public Comment

Bertha C. Fields, 20739 Hermanville Road, Lexington Park, owner of property (D&B Trailer Park)

We have been in operation for 39 years and are here to ask for public water and sewage.

William Mehaffey, Mehaffey and Assoc., Agent representing Bertha C. Fields, P.O. Box 2450, Leonardtown

We concur with the staff report provided to the Commissioners, and I'm here to answer any questions you may have.

Weiner Subdivision

The proposal is to change the service category from W-6 and S-6 to W-3D and S-3D for 6.26 acres described as Tax Map 51, Grid 23, Parcel 428, in the 8th Election District, in anticipation of a 5-lot subdivision for residential development.

Public Comment

John Weiner, Applicant and property owner, P.O. Box 1450, Leonardtown

I am not a developer. This is my first time subdividing. I want to give the first opportunity for these lots to my children and close relatives. The property is located in the Lexington Park Development District, and I understand that is where you want development to occur. It is zoned RL with a base density of one unit per acre and up to 31 total on the property. I am only requesting 5 lots and I will pay for water and sewer connections. I have instructed Mr. Higgs to make sure that all environmental safeguards are taken. 2/3 of the property will be in forest conservation district. MetCom and the Health Department support extending public water and sewer. Planning Commission approved the concept plan on 8/8/05 and after the public hearing voted to change the categories. I am asking you to change the water and sewer categories as requested so that we can proceed to the next step in the subdivision process.

In response to Commissioner Mattingly's request, Mr. Higgs and Mr. Weiner agreed that water could be extended out to Hermanville Road for the placement of a fire hydrant.

Gary Barnes, 20408 and 20412 Old Hermanville Road, Park Hall

I own lots one and two on the map. I attended the initial meeting at Planning and Zoning where they told us not to worry, the request is only to change from six years to three years. My concern is where they want to enter the property. There should be a traffic impact study (even though you aren't required to for 5 houses or less). You can't see around that curve. This is also a flood plain. Every time there is a heavy rain, the area

floods. If you reduce the infrastructure even further and with the highly erodable soils, the soil will be in the Pembroke stream and will block our roads and flood our yards when it rains. The creek already rises much faster than it used to due to the new developments. How can five houses be placed on such a small lot? There is very little high ground on this property. At a minimum you should require that it be de-scoped. This will be too much for the area to take. Most of it is creek bed and wetlands. The prior owner received a tax break because it was useless land. MetCom probably won't want to maintain a system that is under water. The whole area is nothing but springs and wetland. I hope common sense will be used and at a minimum you require that it be de-scoped and not allow as many houses as proposed. *Added later:* I'm concerned about erosion control. Soil is highly erodable and if they scrape it off clean, it will come down to the creek, change the course of the river and block our yards. Greenbriar changed the watershed and Pembroke will change it even more. What are we going to do with all the water?

John Aud, 20417 Hermanville Road, Great Mills

My property adjoins the proposed subdivision. I have been here since 1969 and I know what is on this road and what comes by every day. We have a lot of traffic from Willows Road and others and it will only get worse. I drive a school bus and there are guardrails and no shoulder where the entrance would be and it is dangerous when roads are icy. There is no room to park 10-15 cars. Miss King and Mr. Thompson also think we should be in on the concept plan stage. There will have to be a lot of cutting on this property. There is a 7' drop-off. Where will the water go? There are too many houses being proposed. There are only 2 ½ acres of useable land – the rest is swamp. There is 6-8 ft of water in the run sometimes and it's dangerous for kids. The soil will end up in the run, then in the St. Mary's River. This development will create more flooding problems and traffic accidents. I invite the Commissioners to come and visit my property to get a better understanding of what I'm talking about.

Cherl Dart, 20395 Hermanville Road, Great Mills

My daughter lives in the trailer next to Mr. Aud and we share the same driveway. We have lived here for 15 years and vouch for what Mr. Aud said. Cars are flying up and down this road every day. The road is not straight and flat; it has curves and goes up a hill. How can you put water and sewer across the stream without affecting the natural habitat? Mr. Aud's yard will fall right off. I totally disagree with this proposed development.

Vicki Harlow, 20735 Hermanville Road, Great Mills

I lived here when it was really country. It is now treacherous just to get the mail. We have a horrible time just getting out on the road. Anyone walking in the back of my property could sink. My next door neighbor's tractor has been stuck many times. When we purchased the home, it came with a "guaranty" that it would eventually have water and sewer. I lost my concern over the years about the need for public water and sewer. Ours works well in part because of the slope of the land. When I did ask if we could get water and sewer to our home when I was still concerned about septic and wells, they told me that not one more house could go to Greenbriar and now you have Pembroke

attaching to the system. Every homeowner should be involved in the process because it affects us and will affect us for a long time. If there is ever a problem with Pembroke water and sewer, we will be in a big mess. We need to protect the wetlands. I have reserved a part of my yard and set up food and water for wild animals because they are losing their habitat. I thought the buffer was for that purpose. We need to be responsible for the next generation. I have also been asking for a sign that says "Children at Play" or "Hidden Driveway" to warn motorists of the dangers on this road but have not had a response. I believe we can all live happily. I was also denied the ability to build an apartment over my garage because only one home was allowed per acre - - even if it was for my parents. If the developer eventually goes from 5 houses to 31 in the future, I can't imagine how that would affect us.

William Higgs

We felt five homes on this lot was appropriate and took every effort to cluster them at the top of the property. Regarding the flood plain - - with the exception of crossing the stream with utilities, there will be protected areas. We exceed the sight distance requirements for traffic. We do realize that the soils are highly erodable and that development will require good engineering practices to make sure we don't have problems.

Hearing no more public comment, the public hearing to consider amendments to the CWSP for Smithfield Place and the Weiner Subdivision was closed at 7:30 pm, but will remain open for ten days for written comments.

ADJOURNMENT

The meeting was adjourned at 7:30 pm.

Minutes approved by the Board of County Commissioners on _____

Glenda Dennis, Administrative Assistant

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