

**ST. MARYS COUNTY
BOARD OF COUNTY COMMISSIONERS MEETING
CHESEAPEAKE BUILDING
Tuesday, March 31, 2009**

Present: Commissioner President Francis Jack Russell
Commissioner Kenneth R. Dement (absent)
Commissioner Lawrence D. Jarboe
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley
John Savich, County Administrator
Betty Jean Pasko, Sr. Administrative Coordinator (Recorder)

CALL TO ORDER

Commissioner President Russell called the meeting to order at 9:00 AM.

CHANGE TO AGENDA

It was announced that the Executive Session will be held earlier than scheduled: during the break to set up for the Elms Advisory Committee Report.

MOTION TO ENTER INTO EXECUTIVE SESSION

Commissioner Raley moved, seconded by Commissioner Mattingly, that the Board of County Commissioners go into Executive Session today to discuss litigation matters as the schedule permits. Motion carried 4-0.

APPROVAL OF CHECK REGISTER

Commissioner Mattingly moved, seconded by Commissioner Raley, to authorize the Commissioner President to sign the Check Register for checks dated March 31, 2009, as presented. Motion carried 4-0.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Mattingly, to adopt the minutes of the Commissioners meeting of Monday, March 24, 2009, as clarified. Motion carried 4-0.

Motion pertains to Page 6, 2nd paragraph of the draft minutes; it was clarified that Transitional Planning Areas are addressed in the Lexington Park Development District Master Plan.

PROCLAMATIONS

Proclamations were presented in recognition of the following:

Retirement of Deputy Sheriff Katherine Dassing

Month of the Young Child (April)

National Library Month (April)

COUNTY ADMINISTRATOR

1. Draft Agenda for April 7, 2009 (no BOCC meeting on April 14, 2009)
2. **Dept. of Finance and St. Marys Co. Public Schools** (*Elaine Kramer, CFO*)

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve the submission and authorize the Commissioner President to sign the form evidencing agreement with the Superintendent on the items listed as excludable non-recurring costs based on the Board of Educations requested budget for FY2010, as summarized on page two in its budget book and as listed in the attachment totaling \$2,287,400, and to sign the related submission letter to the Maryland State Department of Education. Motion carried 4-0.

3. **Office of the Sheriff** (*Sheriff Tim Cameron; Lt. Ed Willenborg; and Erin Shoemaker, Fiscal Mgr.*)

Commissioner Jarboe moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the Budget Amendment in the amount of \$4,190 closing out Project US0816 and the Budget Amendment in the amount of \$6,338, reducing Project US0916, both for the Bulletproof Vest Partnership Grant, and returning a total amount of \$10,528 to the Supplemental Reserve. Motion carried 4-0.

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Budget Amendment closing out the Gang Intelligence Program US0922 budget and returning \$82,585 to the Supplemental Reserve. Motion carried 4-0.

Commissioner Jarboe moved, seconded by Commissioner Mattingly, to authorize the Sheriffs Office to electronically submit the grant application documents for the FY2010 Collaborative Supervision and Focused Enforcement (CSAFE) grant, in the amount of \$31,000, consistent with the hard copy application as presented by staff. Motion carried 4-0.

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to accept the CSAFE Crime Analyst Grant Award, Project US0964, from the Governors Office of Crime Control and Prevention, on behalf of the St. Marys County Sheriffs Office, and to approve and authorize the Commissioner President to sign the Budget Amendment in the amount of \$39,649 to set up the project budget. Motion carried 4-0.

4. Dept. of Recreation and Parks (*Phil Rollins, Director*)

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Budget Amendment transferring \$140,000 in Transfer Tax from the FIN09 Capital Reserve to the Carver Heights Park account, project number RP0904, for master planning and development of the Carver Heights neighborhood park; and also to approve and authorize the Commissioner President to sign the Budget Amendment transferring \$135,000 in County Paygo from the FIN09 Capital Reserve to the Lancaster Park South Parcel account, project number RP0905, for master planning and development of the former Lexington Manor site. Motion carried 4-0.

5. Dept. of Public Works (*George Erichsen, P.E., Dir.*)

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Lease Agreement Addenda for the Countys use of SMECOs property for an additional four months, extending the end of the lease to July 1, 2009, in support of the North Patuxent Beach Road Shoreline Improvement Project. Motion carried 4-0.

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Public Works Agreement Addenda; and, to sign the Resolutions, with an Effective Date of April 14, 2009, accepting roads into the Countys Highway Maintenance System and to post speed limit and stop signs, as listed on Mr. Erichsens March 25, 2009 memo and outlined on todays BOCC County Administrators agenda, as submitted. Motion carried 4-0.

Motion pertains specifically to the following:

- (a.) Public Works Agreement Addendum for Southwoods PUD Subdivision, Phase 2, located in the 8th Election District with an Expiration Date of July 1, 2009.
- (b.) Public Works Agreement Addendum for Southwoods PUD Subdivision, Phase 3, located in the 8th Election District with an Expiration Date of April 1, 2010.

- (c.) Resolution posting a 35-mph speed limit on Newtowne Neck Road, County Route 30165, located in the 3rd Election District.
- (d.) Resolution accepting Hanover Drive, Hanover Court, Hanover Woods Court, Orchard Court and Barn Court located in the Hanover at Breton Bay Subdivision, 3rd Election District; and Resolutions posting a 25-mph speed limit and stop signs.
- (e.) Resolution accepting Colby Drive, Pershing Drive, Newport Drive, Carmarthen Drive, Ramsey Drive, Tenby Drive and Hampshire Place located in the Pembroke Subdivision, Section 1, 8th Election District; and Resolutions posting a 25-mph speed limit and stop signs.
- (f.) Resolution accepting FDR Boulevard located in the Wildewood Condominiums, 8th Election District.
A stop sign and 35-mph speed limit has been posted in accordance with default language contained in the Maryland Motor Vehicle Laws.

Commissioner Jarboe moved, seconded by Commissioner Raley, to approve and authorize Commissioner President Russell to sign the Budget Amendment realigning funds between US0603, US0728, and US0828, STS Bus Purchase Capital Grants; and closing remaining balances in the US0603 project to the Reserve Accounts. Motion carried 4-0.

Re: \$156,236 is being returned to Supplemental Reserve and \$110,250 is being returned to BOCC Emergency Appropriations Reserve.

6. County Administrator (John Savich)

Commissioner Mattingly moved, seconded by Commissioner Raley, to approve and authorize the Commissioner President to sign the Employment Contract for Derick P. Berlage as the Director, Land Use and Growth Management for the period identified in the contract as April 15, 2009 through May 30, 2011. Motion carried 3-1. (Commissioner Jarboe voted nay).

PUBLIC HEARING: TO CONSIDER A SUPPLEMENTAL APPROPRIATION IN THE AMOUNT OF \$99,561 FOR THE WICOMICO SHORES GOLF COURSE

Present: Elaine Kramer, CFO
Phil Rollins, Dir., Dept. of Recreation and Parks

Commissioner Russell opened the public hearing at 10:30 am. Ms. Kramer provided opening comments. The public hearing was advertised in the March 20 and 27, 2009, editions of the Enterprise newspaper.

The Department of Recreation and Parks is requesting consideration for a supplemental appropriation of \$99,561 for the Wicomico Shores Golf Course due to over estimating revenues and under estimating expenses for Fiscal Year 2009. An additional \$69,450 is

spending authority was requested, due mainly to the initial start-up costs associated with opening the new kitchen; i.e., kitchen equipment, dishware, and materials. Also, there is a projected revenue shortfall of \$30,000 in the overall operation of the facility. The deficit will be offset from the Golf Enterprise Fund Balance, which is currently approximately \$300,000.

Commissioner Jarboe questioned a contingency plan in the event the budget amendment is not approved by the BOCC and stated his preference to have the restaurant facility operated by a private contractor. Discussion ensued comparing the restaurant facility to the Breton Bay Golf Course operation and viewpoints for privatizing operations at Wicomico Shores.

Commissioner President Russell opened the hearing for public comment at 10:38 AM.

Public Testimony

Cynthia L. Jones, P. O. Box 406, Valley Lee, MD

Expressing concern for better use of tax dollars and that Government should not be running a business, Ms. Jones provided testimony opposing the supplemental appropriation.

It was clarified that tax revenue would not be used; the funding source, if approved by the Board, will be the Golf Enterprise Fund Balance.

Commissioner President Russell closed the hearing for public testimony, declared the 10-day open record period, and subsequently closed the public hearing at 10:41 am.

EXECUTIVE SESSION

Litigation

Present: Commissioner Francis Jack Russell, President
Commissioner Lawrence D. Jarboe
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley
John Savich, County Administrator
Christy Holt Chesser, County Attorney
David Weiskopf, Deputy County Attorney
Liz Passarelli, Real Property Manager
Phil Rollins, Dir., Recreation and Parks
Donna Gebicke, Recorder

Authority: Article 24, Section 4-210(a)8
Time Held: 10:40 am 10:48 am
Subject Discussed: Potential Litigation

MOTION IN OPEN SESSION RESULTING FROM EXECUTIVE SESSION

Commissioner Raley moved, seconded by Commissioner Mattingly, to direct staff to proceed as discussed in Executive Session with regards to litigation. Motion carried 4-0.

ELMS ADVISORY COMMITTEE REPORT

Present: Phil Rollins, Dir., Recreation and Parks

The following Elms Advisory Committee (EAC) voting members were in attendance:

Sandra Patty, Power Plant Research Program, MD Dept. of Natural Resources (DNR)

David Heilmeier, So. Region Mgr., Wildlife and Heritage Service, DNR

Mark Muir, Forestry Service, DNR

Phil Shire, Acting Director, Dept. of Land Use and Growth Management

Brad Clements, Chief Operating Officer, St. Marys Co. Public Schools

Marianne Chapman and Steve Riley, Citizens

Mr. Rollins is a committee member and acting chair on behalf of the Director, Land Use & Growth Management. Mr. Rollins stated that the purpose of today's report is twofold: to provide the annual report and to foster discussion about the hunting issue.

The 1,020-acre Elms property was acquired as a future power plant site by the State and is currently being used for environmental education, recreation, wildlife management (hunting), and forestry management.

The Elms Management Plan, adopted March 11, 2003, establishes uses of the property, placing emphasis on environmental education and recreation. The Plan served as the basis to a new, 25-year lease (effective 6/1/2004) between the Maryland Department of Natural Resources (DNR) as the landlord, and the County (BOCC) as the property's tenant.

The new lease area increased in size from about 230 acres (75 acres for environmental education, 80 acres for Elms Beach Park, and 75 acres for hunting safety zone) to about 476 acres. The State management property, on which hunting is permitted, was reduced from 790 to 544 acres.

Mr. Rollins' presentation included a walk-through of the previous lease lines (designating the environmental education, recreation, hunting permitted and safety zone areas).

It was clarified the lease stipulates the property shall be occupied and used for and only for use as a non-profit educational center and beach-related recreational area. Other uses of the leased property have to be mutually agreed to; i.e., by the State (DNR) and the County. The committee does not feel hunting is a beach-related recreational use.

During the previous report to the BOCC on July 31, 2007, the BOCC's direction was to look for compromise.

A proposed Future Use Areas, Field Sites, and Trail Additions map prepared by the Board of Education was presented. This map serves as the basis for the committees recommendation regarding hunting. The map contains outdoor classrooms (designated as use areas). Mr. Rollins reviewed hunter proposal considerations, which were rejected by the EAC.

The EAC proposal (committee voted 7 for-1 against -1 abstain for the compromised proposal) includes allocating a 13-acre area open to hunting with an additional 64 acres available after demolishing deteriorated and abandoned houses. Mr. Heilmeier stated that DNR did not commit to managing hunting on the 13 acres. DNR Wildlife and Heritage Service was not present at the committee meeting when the vote was made. Mr. Heilmeier further stated DNRs reluctance with facilitating hunting on school property, additionally stating the rule of thumb is 25 acres per hunter. However, it was noted that the abandoned houses would not need to be demolished in order to allow hunting in the additional 64 acres. It was further noted that 850+ acres of State property was opened in fall 2007 on Indian Bridge Road, known as the Salem tract (which is approximately within 12 miles of the Elms Beach property). Hunting is also permitted at the St. Marys River State Park which is nine miles way.

After much discussion regarding property use and safety, Commissioner Russell said a decision would not be made today and that the information will need to be further reviewed by the Board.

FINAL APPROVAL OF RECOMMENDED FY 2010 BUDGET TO TAKE TO PUBLIC HEARING ON APRIL 21, 2009

Present: Elaine Kramer, CFO
Jeannett Cudemore, Deputy Director, Dept. of Finance

Although additional State cuts may be forthcoming though the middle of April, the FY2010 Recommended Budget was presented for approval to take forth to public hearing on April 21, 2009.

Ms. Kramer highlighted the following elements of the FY2010 Recommended Budget:

General Fund: \$200,391,552 (a 1.1% decrease to FY2009 approved general fund)
The general fund is comprised of revenues total \$196,291,552 (a 2.7% increase over FY2009, and includes the application of \$4,100,000 in fund balance.)

Enterprise Funds:

Recreation and Parks Activity Fund:	2,683,234
Wicomico Shores Golf Fund	1,887,415
Solid Waste and Recycling	4,166,364
Medical Adult Day Care Fund	953,287

Special Revenue Funds

Misc. Revolving Fund	313,761
Special Assessment Fun	59,664
Emergency Services Fund	1,859,156

Other Operating Funds Independent Boards

(Non-Appropriated State, Federal, and Misc. Funds)

BOE Gen. Operating Fund	98,818,157
BOE Restricted Fund	9,543,738
BOE Revolving Fund	9,210,639
Board of Library Trustees	977,750
College of So. MD	7,014,370

Total Operating Fund: \$337,879,087

Total Capital Projects Fund: \$42,285,639

Commissioner Mattingly moved, seconded by Commissioner Raley, to approve the FY2010 Recommended Budget, as presented and summarized on the Total Budget schedule in our packages, to take to public hearing on April 21, 2009; and to sign the Recommended Estimate of Revenues and Appropriations evidencing our approval of the Recommended Budget. Motion carried 3-1 (Commissioner Jarboe voted nay). Commissioner Jarboe expressed his appreciation that the Board of Educations budget submission is 5% less than last year even though they are bringing a new school on line.

OFF CAMPUS LUNCH AND TOUR

The Commissioners visited Cedar Lane Apartments for lunch and a tour of the facilities, located at 22680 Cedar Lane, Leonardtown. The Commissioners then visited the site of the new Hospice Building.

Minutes Approved by the Board of County Commissioners on _____

Betty Jean Pasko, Sr. Admin. Coordinator (Recorder)