

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
GOVERNMENTAL CENTER
Tuesday, May 15, 2007**

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

CALL TO ORDER

The meeting was called to order at 9:00 am.

ADDITION TO AGENDA

Commissioner Russell announced that Item 5C, DPW&T, Public Works Agreement for the Wildewood Condos Project, has been added to the County Administrator's agenda.

APPROVAL OF CHECK REGISTER

Commissioner Raley moved, seconded by Commissioner Jarboe, to authorize the Commissioner President to sign the Check Register for checks dated May 15, 2007, as submitted. Motion carried 5-0.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Dement, to adopt the minutes of the Commissioners' meeting of May 8, 2007, as presented. Motion carried 5-0.

Laschelle Miller, Town Administrator for Leonardtown, introduced Mr. Keitaro Tanaka, of Japan. Mr. Tanaka is on a two-year program based in New York, CLAIR, "Council of Local Authorities for International Relations," and is visiting St. Mary's County this week to learn and exchange information about local county government.

PROCLAMATIONS PRESENTED:

National Safe Boating Week – May 19-25, 2007 (Patuxent River Sail and Power Squadron)

Present: Hal Willard, Public Boating Chair

National Tourism Week – May 12-20, 2007 (Dept. of Economic and Community Development)

Present: Carolyn Laray, Tourism Manager
Beverly Brown, Tourism Coordinator

Additionally, Ms. Brown announced the “Snapshots of St. Mary’s Photo Contest”, May 15 through October 31, 2007. Ms. Laray announced the 2007 “Rockin’ & Reel-In Fishing Contest”, August 1 through October 31, 2007, and acknowledged this year’s sponsors.

COUNTY ADMINISTRATOR

1. Draft Agendas for May 22, and 29, 2007
2. **Dept. of Recreation, Parks, and Community Services and Office of the County Attorney** (*Phil Rollins, Director; Liz Passarelli, Real Property Manager*)

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the SMECO Easement Agreement for the overhead to underground conversion of the electric service to Leonard Hall Recreation Center. Motion carried 5-0.

3. **St. Mary’s County Health Dept.** (*Karen Yates, Coordinator, Infants and Toddler Programs*)

Commissioner Jarboe moved, seconded by Commissioner Dement, to sign Resolution reappointing the St. Mary’s County Health Department as the Local Lead Agency for the St. Mary’s County Infants and Toddlers Program. Motion carried 5-0.

4. **St. Mary’s County Public Schools** (*Theo Cramer, Director, Academic Support, St. Mary’s Co. Public Schools*)

Commissioner Dement moved, seconded by Commissioner Raley, to sign consent letter authorizing the St. Mary’s County Public Schools to accept a grant from the Maryland State Department of Education in the amount of \$10,000 to fund an after school chess program. Motion carried 5-0.

5. **Dept. of Public Works and Transportation** (*George Erichsen, P.E., Director; Jacqueline Fournier, Transportation Mgr.*)

Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Memorandum of Agreement between the MD Dept. of Human Resources, St. Mary’s County Dept. of Social Services, and the Board of County Commissioners for St. Mary’s, for Job Access I and Job Access II, and the related Certifications Regarding

Lobbying. And also, to approve and authorize the Commissioner President to sign the Memorandum of Agreement between the MD Dept. of Human Resources, St. Mary's County Dept. of Social Services, and the Board of County Commissioners for St. Mary's, for Job Access III and the related Certification Regarding Lobbying. Motion carried 5-0.

Commissioner Raley moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the Public Works Agreement for the Wildewood Condominium Project based on receipt of the payment from Strubridge Wildewood, LLC for the future traffic control signal at the MD Route 235 and FDR Blvd. intersection. Motion carried 5-0.

6. Dept. of Land Use & Growth Mgmt. (Denis Canavan, Director)

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to approve the reorganization of the Department of Land Use and Growth Management from five to six divisions, separating the personnel and their respective functions out of the Development Services Division and creating a separate Zoning Administration Division, as proposed in the Department Director's memo of May 9, 2007, effective with FY2008 budget. Motion carried 5-0.

DEPT. OF PUBLIC WORKS AND TRANSPORTATION: DECISIONS ON PROPOSED ORDINANCES

Decisions were rendered as follows (BOCC Public Hearings were held on May 1, 2007):

1. Request for Decision on Proposed Ordinance to revise the District Boundary and Levy a Benefit Assessment Charge for the Kingston Creek Taxing District, located in the 8th Election District

No additional public comments were received during the open record period following the public hearing.

Commissioner Raley expressed his concern about the length of time it took for the county to bring this levy ordinance forward for consideration by the Board of County Commissioners. The extensive amount of time between the completion of the work and the actual levying of the tax is not acceptable. Mr. Erichsen, Director of Public Works and Transportation, was asked to review other taxing districts to ensure that this unacceptable, extended timetable does not reoccur.

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and sign the proposed Ordinance to revise the District Boundary and levy an annual benefit assessment charge against the benefiting properties for a

period of twenty years for the Kingston Creek Waterway Improvement District. Motion carried 5-0.

2. Request for Decision on Proposed Ordinance to Fix and Levy a Benefit Assessment Charge for the Holly Point Shore Erosion Control Special Taxing District, located in the 1st Election District

No additional public comments were received during the open record period following the public hearing.

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and sign the proposed Ordinance to levy an annual benefit assessment charge for a period of twenty-five years against the benefiting properties for the Holly Point Shore Erosion Control Special Taxing District for the cost of constructing a stone revetment. Motion carried 5-0.

3. Request Decision on Proposed Ordinance to Adopt an Annual Environmental and Solid Waste Service Fee

Discussion ensued regarding: application to apartment units, timing (relative to budget deliberations), fee application (all approved residential property), commercial rates (convenience centers), and concerns from senior citizens. It was clarified that the fee will go into an enterprise fund; will still be subsidized (fee expected to pay about 50% of the recycling operations).

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and sign the Environment and Solid Waste Service Fee as presented, and for staff to proceed with the recordation of the document. Motion carried 5-0.

PUBLIC HEARING (ST. MARY'S COUNTY HOUSING AUTHORITY): TO REVIEW APPLICATION TO MD DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR MOBILE HOME RESIDENT VOLUNTARY RELOCATION ASSISTANCE FOR RESIDENTS OF WHITE OAK AND NATIONAL MOBILE HOME PARKS

Present: Dennis Nicholson, Executive Director

Commissioner Russell opened the public hearing at 10:30 a.m. and stated that a second public hearing is scheduled for Thursday, May 17, beginning at 4:00 p.m. at the Lexington Park Library. It was clarified that the purpose of the public hearing is to obtain the views of citizens on Community Development Housing Needs and to offer citizens an opportunity to review and provide input regarding an application for Mobile Home Resident Voluntary Relocation Assistance, which the Housing Authority of St. Mary's County as a sub recipient of St. Mary's County propose to submit to the

Maryland Department of Housing and Community Development. This application requests the reprogramming of any unused Lexington Manor Relocation funds, and additional Special Project funds to provide relocation services to residents of White Oak and National Mobile Home Parks.

It was clarified that the two property owners are ultimately responsible for the requirements to assist with relocating residents. The County's assistance supplements requirements and does not take away the responsibility of the property owners.

Mr. Nicholson reviewed the public hearing notice and informational sheet (which included FY2007 Income Limit Summary information) about the Community Development Block Grant (CDBG) program and provided copies to the Board and those in attendance. Notice of the public hearing was advertised in the May 4 and May 11, 2007, editions of the Enterprise and ran on Channel 95.

Mr. Nicholson stated the amount of the grant as \$363,025, and that more details will be provided at the upcoming public hearing on Thursday.

Public Comments:

Kevin Carney, Thomas Builders, 10705 Charter Dr., Suite 450, Columbia, MD 21044

Mr. Carney introduced himself as the owner of Thomas Builders and White Oak Mobile Home Park. In addition to the requirements (outlined in the State Code), Mr. Carney stated that he has allocated \$217,000 for relocation (gross income one year, based on average rent \$3100/year).

Rick Eshelman, Advanced Management Services, has met with almost all of the residents to ascertain their needs and to come up with a plan. Has found a park with 35 positions and the potential to add trailers;
i. e., St. Clements Crossing on Great Mills Road. The original park has 70 units, currently have 58 units left.

Liz Crosby, P. O. Box 1944, California, MD

Ms. Crosby presented testimony in support of the CDBG application. Ms. Crosby stated that she co-owns a trailer at White Oaks (daughter lives there) and presented testimony regarding the cost of moving a trailer (which had been provided by Richard Eshelman as \$8,000 to \$12,000) and where it can be moved (has contacted or visited 20 local trailer parks and indicated none of them have room for another trailer). Ms. Crosby further commented regarding the costs with purchasing a lot (starting price at \$200,000) and if her trailer is sold, she may get 1/3 of the value. In closing, Ms. Crosby requested the County find or buy land that could be used to relocate the trailers in White Oaks.

Sharii L. Toczyl, 22289 Scott Circle, Lexington Park, MD 20653

Ms. Toczyl presented testimony in support of the CDBG, however, stating that she does not agree with the amount. Ms. Toczyl stated that she had tried to sell her trailer (could not get a one year lease with original buyer, had to get a lawyer), but anyone interested wanted to keep the trailer where it is (has invested \$3,000 in landscaping). Was concerned that, within one month, the park was closed, any no one informed her of the plan while she was investing time and money into landscaping. She has declined an offer of \$5,000 for her trailer (should get fair market value). Ms. Toczyl's husband travels to North Carolina (home on weekends). Ms. Toczyl expressed disappointment with not being getting a response to her letter or being able to schedule an appointment to discuss her concerns.

Roland Kelley, Lot 8 – 22361 National Circle

Mr. Kelley presented testimony in support of the CDBG and requested clarification concerning qualification information, specifically with income levels. Along with wife, work as contractors and the family income level can be sporadic with periods of either "making too much" (to qualify) or "not enough". Mr. Kelley added that they are hard working people and stated that if the figures provided are true, they will need help.

Jim Welch, 46178 Springtime, Lexington Park, MD

Mr. Welch indicated that he had been a salesman for National. He had lost a home to 'emanate domain'. Thought this home would be his last home, now has to move. Expressed that these are good people getting a raw deal, especially people that have moved in two years ago and were told they'd never need to move. Mr. Welch stated that he is moving out of the County.

Robert Elam, 22235 Scott Circle, Lexington Park, MD 20653

Mr. Elam indicated support for the CDBG (on the sign up sheet) and questioned if the County or the State will "gain" (from the development). Commissioner Mattingly responded that all of the grant money will go toward relocation assistance. Development does generate taxes, revenue for the County. Commissioner Jarboe stated that with more people coming into the County, more children will be in public schools (costs to County). Commissioner Raley added that St. Mary's County will need to push for the grant.

Kendra Thompson, 22401 National Circle, Lexington Park, MD 20653

Ms. Thompson stated that she moved to National one year ago and thought it would be a stable place. She does not approve of the land being sold. Ms. Thompson said she had moved this weekend and doesn't like having to take her kids out of school (and placing them into a different school again). Ms. Thompson thanked Andrew, National, for his relocation assistance.

Dennit Goudwin, 22242 Scott Circle, Lexington Park, MD

Mr. Goudwin stated that he is attending on behalf of his mother-in-law. Mr. Goudwin stated that there are limited openings and asked about the future for trailer parks in St. Mary's County and that the community should be better educated; what are the requirements by law (Thomas Builders). His mother-in-law is moving toward retirement;

what are her options? Mr. Goudwin expressed concern for crowding and crime rates and that more emphasis needs to be placed on security. Regarding trailer costs for relocation and hook-up, \$365,000, grant amount should be more. In closing, Mr. Goudwin said workforce housing needs to be looked at with renewed rigger.

Commissioner Russell asked for show of hands in support of the Community Development Block Grant (CDBG). There was an overwhelming show of support by those attending. There were 38 individual names on the sign up sheet. One citizen did indicate that he is against the CDBG on the sign-in sheet.

Commissioner Russell closed the public hearing at 11:15 a.m. and stated that during the ten day open record period, written comments may be submitted to the Board of County Commissioners.

COMMISSIONER'S TIME

Commissioner's time was waived.

LAW ENFORCEMENT APPRECIATION DAY

The Commissioners participated in the St. Mary's County TRIAD/S.A.L.T. Council & Dept. of Aging: Law Enforcement Appreciation Day on the grounds of the Governmental Center.

FY2008 BUDGET WORK SESSION

The Commissioners conducted a budget work session.

PUBLIC HEARING (HELD AT THE COLLEGE OF SOUTHERN MARYLAND): TO CONSIDER PROPOSED ZONING TEXT AMENDMENTS TO MODIFY PROVISIONS FOR TRANSFERRING DEVELOPMENT RIGHTS (TDRS)

Present: Denis Canavan, Dir., Dept. of Land Use & Growth Management (LUGM)
Jeff Jackman, Senior Planner, LUGM

Mr. Canavan announced that the hearing notice was published in the Enterprise newspaper on April 27 and May 2, 2007, and in the St. Mary's Today newspaper on April 29 and May 6, 2007. Mr. Canavan provided copies of a table to be used as a reference for landowners to determine the maximum potential lots of TDRs available from a parcel in the RPD and how many are needed for maximum development, a "Side by Side Comparison" of the current Zoning Ordinance and the proposed Chamber of

Commerce Ordinance, and reviewed highlights of the staff report dated May 10, 2007, all of which were entered into the record.

The proposed TDR Amendments are the result of years of work by a number of community groups and staff. Amendments to the text of the St. Mary's County Zoning Ordinance have been drafted to incorporate their proposals and were presented on February 7, 2006, to the Board of County Commissioners who then directed the Planning Commission to hold a public hearing on the amendments and to advise whether they should be adopted.

The Planning Commission held public hearings on April 10, 2006, and May 22, 2006, on the proposed amendments and voted to recommend to the Board of County Commissioners to amend chapters 26 and 32 of the Comprehensive Zoning Ordinance as proposed by the Task Force.

The proposed amendments, at the very least, are intended to achieve the following:

1. Allow for calculating the number of TDRs on a sending property using gross acreage rather than first deducting from the gross acreage all acreage associated with sensitive areas (present provisions are very complex and difficult for landowners to understand, proposal is gross acreage divided by five = total number of TDRs, with no requirement for a survey, just a deed or property tax bill);
2. Require use of a TDR for each dwelling after the initial dwelling on a property in the RPD zone; continue to allow transfer of development rights from sending areas in the Rural Preservation District (RPD) to receiving areas in the RPD, but for each additional dwelling after the initial dwelling on a property, require the purchase of TDR(s);
3. For receiving areas in the RPD, increase the number of TDRs required for each anticipated dwelling as shown on a submitted subdivision plan, with the number of required TDRs varying as density increases from 1 dwelling per 5 acres up to a maximum of 1 dwelling per 3 acres;
4. Clarify the certification provisions for documenting transferred rights by assigning an individual serial number to each TDR, and using it for tracking purposes from sending to receiving area;
5. Clarify the language covering the original, intermediate and final instruments of transfer (three separate documents);
6. Add grandfathering provisions that recognize the previous use of TDRs and plans that have already been filed and are in the development process; and
7. Limit the means of increasing residential density to using TDRs and providing affordable housing. Schedule 32.1 sets base density and maximum density for the

various zoning districts, and cites Schedule 32.2 for methods to achieve residential density increases. In addition to using TDRs and affordable housing, the methods found in Schedule 32.2 include design enhancements such as roof pitch and energy efficiency. The amendment would delete these methods from Schedule 32.2; a subsequent amendment will address them as guidelines elsewhere in the Zoning Ordinance. The expected result is that the methods provided by Schedule 32.2 to increase residential density will be limited to using TDRs and including affordable housing.

Staff recommends adoption of the amendments proposed by the Task Force with modifications, which are identified in the May 10, 2007, staff report.

Commissioner President Russell opened the hearing for public comments.

Public Comments

William Johnson, Morganza, MD

Wrote a letter to the Board two weeks ago. Family owns two adjacent farms in Morganza. Should be exemptions or provide for gift to family members. We should not be forced to purchase TDRs or set aside acres where nothing can be built on the property. I attended the other informational session and heard some talk about the unfairness of family exemptions, that farms are a luxury, and that we are in a unique situation. We actually need to set aside five acres, but are losing use of 8 acres. Farm families are not rich. We have worked hard for over 100 years on these farms. Also heard that all must share the pain - - but this is pain beyond measure for next generation. Please consider provisions for interfamilial transfer. If not, we will be forced to sell out which will decrease the number of farms and increase development in the RPD.

George E. McKay, Sr. 21349 Pt. Lookout Rd., Callaway, MD

I went to two mortgage companies – 6.25% for first mortgage, gave them \$300,000 payment – 1847.15/month for 30 years. TDR 20,000 TDR – same mortgage 3 1970.30, \$123.15 more per month to buy one TDR without any down payment. County will save 1.25% \$325,000. \$22,165.80 without . . . 12 month payment. \$23,000 over 30 years. Will pay \$664,974 TDRs - \$709,308 – additional 25% \$720,388.80. Over \$20,000 TDR – addition – 44,334. \$55,314 – add \$25,000 - \$80,000 for one TDR. Will be a rough road for young children to travel. How can they have a home – make it hard on younger or new who want to buy a home in the RPD. Talking about a whole lot of money.

Ford Dean, Leonardtown, MD

My views on the proposed TDR changes have evolved as I have reviewed and studied the proposal. Initial bias was one of skepticism, because on a country-wide basis, TDR programs have not enjoyed much success in achieving the preservation of agricultural land. Nevertheless, the goals which are sought to be achieved via the proposed changes in the TDR program are worth goals which we as a community should strive to achieve, and the cost to achieve these goals should be shared among the members of the

community. The goals being: the preservation of agricultural land and a viable agricultural industry, the preservation of the rural character of the county where it still exists, and the creation of an option for those landowners to receive a level of compensation if they choose to not have their properties developed.

There are varied and competing interests for use of land which lies in RPD. If an RPD program is to be sustainable over time, its provisions must be crafted so as to represent a consensus agreement among the competing interests. In other words, if there is not a broad base of support for the provisions of the TDR program, it will not be sustainable over time. We have a general election every four years and with it the quadrennial potential for a new set of views, philosophies and agenda within the governing body – influenced by public opinion.

I have nine specific comments, but won't read all nine at this time: 1. It is proposed that for each building lot/dwelling unit, over and above any existing dwelling which may exist on a parcel of record, that one TDR be purchased or set aside. The view has been expressed that there should be an exemption to this requirement in cases of intra-family transfers. Would such an exemption meet a test of being fair and equitable? Consider that son or daughter who is fortunate enough to have parents or grandparents who own sufficient land to give him/her a lot, with that son/daughter whose parents or grandparents do not own sufficient land. If intra-family transfers are exempt from the requirement of the purchase of a TDR, the former son or daughter does not have that expense, while the latter son or daughter does. One has to question the fairness and equity of such a policy.

I am sensitive, however, to the view of those property owners who feel that they should have the right to make an intra-family transfer of a lot without the requirement of buying a TDR, or alternatively, setting aside a TDR elsewhere on their property. I submit that there is a way to address this issue without creating an inequitable intra-family transfer exemption. I propose that up to the first five lots/dwelling units at a density of 1 dwelling unit per five acres, including any existing dwelling units created on a parcel of record may be done without the requirement for the purchase or set aside of TDRs. Such a policy would address the overwhelming majority of individual intra-family transfers, as well as creating a level playing field for all property owners.

Lois Duke, 44037 Joy Chapel Road, Hollywood, MD

(Told of the history of her family farm "Abell Farms," dating back to 1880). My mother, who is still living on the property, deeded her ½ interest in this historic property to me. The other ½ interest was purchased by me and my family for market value from my uncle's children (none of whom reside in St. Mary's County) because we felt it important to offer the opportunity to my children and grandchildren to live and thrive on the same property that has supported our family for the last 127 years. I can happily say that of my three children, two currently reside on our "family property," and I hope to get the third one here someday. I am also fortunate to have five beautiful grandchildren that reside on the property with their parents, and needless to say, I would love to keep them near me. After continued ownership and stewardship of this property for the last 127 years, I do

not think I should have to purchase any kind of development right. I feel my family has already paid for development rights.

John K. Parlett, Charlotte Hall, MD

The St. Mary's County Chamber of Commerce led a group of us down a path in February 2005 that has led us to where we are this evening. Our charge was to review the current St. Mary's County TDR program and make recommendations on ways to improve and enhance it. Our first order of business was to reach out to the community to seek assistance in tackling this issue. Ultimately, our committee had over 15 members representing a wide cross-section of community stakeholders. We developed objectives, goals, strategies, and ultimately recommendations. Our guiding principle from the outset was quite simple: Protect and preserve the rural character of St. Mary's County for future generations to enjoy.

A colossal effort has been expended by our committee since February 2005 - - estimate over 2500 volunteer hours over the past 27 months, including countless work sessions presentations, and public meetings. Throughout the process we never wavered from the original guiding principle. Everyone wanted something different - - from a moratorium in the RPD, to 1 home per 25 acres, to leaving things the way they are. Proposal is not perfect and no one person got everything they desired, but it is a respectful compromise between legitimate stakeholders. The proposal will have an absolutely positive and enduring impact on the RPD in St. Mary's County. The proposal provides the following benefits: (1) simplifies the TDR program to foster participation and provides reasonable compensation to landowners who sell TDRs; (2) provides farmers with an alternative to selling their farms for development, which allows them to continue farming operations; (3) increases the demand for TDRs, as well as the supply of TDRs, to ensure healthy well-balanced TDR market, free of government interference; (4) provides a reasonable *fee in lieu of* program that assures everyone the ability to move forward with development plans, regardless of availability of TDRs in the open market; (5) slows the pace of residential growth and the associated residential sprawl in the RPD; (6) Assists in preserving and protecting the rural character of the RPD, and will save approximately 3,000 acres of agricultural and environmentally sensitive areas in the RPD per year, above and beyond current preservation program; (7) will assist St. Mary's County in meeting its goal of preserving 60,000 acres in the RPD, as set forth in the 2005 Land Preservation, Parks and Rec Plan adopted in 2005; (8) spreads the cost of saving the RPD to more stakeholders and does not place that burden solely on the back of the farming community; (9) will have a minimal, 3-5%, one time-cost impact on the price of a typical home in the RPD for those who chose to live there. It is now in your hands to make the tough decision to accept this proposal to "protect and preserve the rural character of St. Mary's County for future generations to enjoy."

Kenneth Boothe, 46138 Boothe Farm Rd.

I'm a farmer, from Great Mills, and I believe this proposal is too extreme, aggressive and unreasonable. I believe in voluntary agricultural preservation methods. This is deliberately designed to confiscate the farmer's property. It is a very biased report -- look at the number of developers, attorneys, agency officials and other members of the

Committee that had an interest or agenda (want to sell or force to sell). We should have the right to hold on to our property in perpetuity. This is a confiscation of our property by down zoning. Stick to the current 5 acres and do not require purchase of TDRs unless you are going to three or four acres per lot. This proposal will cause hardships for farmers and any new people coming in wanting to build. You won't solve problems on backs of land owners and farmers through down zoning. The fifth point in the APF Task Force document recommends designating priority preservation areas – in other words, Task Force studying APF, all relates to school capacity. Then they bring in land preservation topic of agricultural preservation priority areas. What they are saying is that the reason we have inadequate public facilities is the farmer. Then, they will say, “no, no, that's not what we are saying.” But, that IS their fifth point. If we don't take away from farmers, we can't have adequate public facilities.

Donald Strickland, 46023 Strickland Rd., Great Mills, MD

(The TDR proposal) is not perfect, but it's a good start. It should be viewed as a living, working document with the contents to be reviewed and revised as needed in the future. It is an additional voluntary program, along with the Maryland Agricultural Land Preservation Program and the Rural Legacy program, which farmers and landowners can chose from to preserve land for future generations. The individual landowner decides whether to participate in any of the programs. If the land owner choses the TDR program, he/she could sell some TDRs each year or all at one time and still own the property. The other choice is to sell their land to the highest bidder for development. The final decision to participate always rests with the landowner.

Speaking on behalf of the Farm Bureau, we agree that gross acreage should be used for calculating TDRs derived from a deed, property tax bill, or survey, but we have reservations about the calculation of sellable TDRs. In calculating sellable TDRs, each agricultural parcel that qualifies for agricultural assessment at the time of the adoption of this ordinance would not require a TDR for the existing house and one additional house would be given by right without requiring a TDR. Further discussion on the number by right is needed. Should be additional rights if you have six children. We also do not support the use of TDRs as a receiving area in the RPD unless the RPD area is contiguous to the existing planned growth areas of the county, such as Leonardtown and Lexington Park Development District and town centers and villages, as identified in the “Strategy for the 21st Century Comprehensive Plan adopted 2/19/02. An example would be the Kings Christian School, which was contiguous to a Village Center and was included in the Callaway Village Center.

We do not support the changes in 26.5, removing 26.5.2, because removing 26.5.2 has the potential to permit through Schedule 50.4 of the Zoning Ordinance such uses as clubs or lodges, cultural institutions, educational facilities, public recreation facilities, religious assembly, and other uses that are non-agricultural related. We support agricultural related business activities in the RPD.

We support the nine permitted agricultural use classifications and conditional uses (listed). If you are truly going to provide protection to our agricultural land: (1) the Right

to Farm Ordinance must be fully implemented; (2) a viable TDR program must be implemented; (3) a growth polity must be adopted; (4) an Adequate Public Facilities Ordinance must be adopted; and (5) additional revenues for agricultural preservation must be designated and earmarked even if it means going to the bond market.

To further protect the RPD and encourage growth back into our planned growth areas, MetCom needs to refocus on the Comprehensive Water and Sewer Plan which directs water and sewer to planned areas of growth (Development Districts and Town and Village Centers, not in the RPD).

Randy Morris, St. Inigoes

My family has owned farm in St. Inigoes since 1890. 55 acres on the farm is not even useable, but we have paid taxes on it and not made a dime off of it since 1890. An advantage to the TDR program is that you can sell off portions of property that aren't useable, but my concern is that my father has 13 grandchildren and there is not enough TDRs for all. He would have to pay for TDRs to provide them with land to build on, even though we have paid taxes on this land all these years. There should be an exemption to allow land to be passed on to family members.

George McKay, Jr., Callaway, MD

This is a beast of our own making. The county is enticing growth and then penalizing developers for bringing in growth. This is a heavy burden newcomers will have to bear. How can it be a free market commodity (TDRs) when there is so much government control. Only wealthy will be able to live in the RPD. When a farm family can't afford to send their children to college, passing on land to family members is the equivalent of college. This proposal will hurt more than it helps. Leave the average person with some opportunities. It's ironic that the county can use TDRs to build schools and parks. I have a petition with 76 signatures opposed to this TDR proposal. If the Board of County Commissioners represents the people - - this is going to hit those who are 16 years old hard - - and they will soon be voting.

Robert Jarboe, Leonardtown

I support the recommendation of the TDR Task Force which recommends that the calculation of the number of TDRs available to a landowner be based on the gross acreage from their deed, tax bill or a survey of the property, at the owner's option, at a rate of one TDR per 5 acres. I also support the Farm Bureau's testimony (Donald Strickland), which was approved and signed by their Board of Directors. If we are to have a TDR program that most landowners can support, the issue of family conveyance should be permitted without requiring use of TDRs for an immediate family member. Now this raises the question of how many family conveyances should the landowner receive by right. I would suggest using either the national or state average of the number of children in a household and that this not exceed three. And, when calculating the TDRs on a sending property, the existing occupied home or homes on the sending property be calculated at the zoning density that was in place at the time that home or homes were built. The dwelling unit must be in a livable condition and occupied at the time of calculation of TDRs.

Remember, the best agricultural land is the best “percable” land and this is the land that is under the most pressure from development. If we are truly concerned about protecting prime agriculture land for future generations, we have to stop allowing TDRs to be transferred within the RPD area of the county unless that area is contiguous to an existing planned growth area of the county, the Development Districts, or the Town or Village Centers.

If we are going to encourage growth in the planned growth areas, something needs to be done with the Metropolitan Commission, which needs to be refocused or redirected to the Comprehensive Water and Sewer Plan that directs water and sewer to the planned growth areas of the county. They haven’t “sewered” all of the Development District yet.

Linda Vallandingham, 21705 Indian Bridge Road, California, MD

I agree with the statements from Ford Dean, John Parlett, the Farm Bureau, and Robert Jarboe regarding the TDR proposal. The TDR program is not new. This proposal is a revision of the current program and an improvement over what we currently have in place. It is a voluntary program and an additional opportunity for a landowner to participate in land preservation program if she/he is interested in doing so. The TDR program should be viewed as a working document and needs to be subject to periodic reviews. If you (BOCC) are really concerned about protecting land for agricultural purposes for future generations and for directing growth to where it belongs, you need to seriously consider approving the revised and strengthened TDR program. Thank you.

Jay Duke, Joy Chapel Road, Hollywood, MD

This intelligently crafted plan is the wrong plan for St. Mary’s County. (A mechanic analogy was offered, i.e., why replace whole engine rather than starting first to fix the parts that aren’t working?) We came to a compromise with one in five with no exceptions. It’s cheaper for developers to buy and build on RPD land. Make it the same or more expensive in the RPD and they’ll go back to the Development District. This is a confiscation of landowner rights - - instead, start with fixing the small things that are wrong first. Do a little first, then come back to the table if they aren’t working. I’ve heard that protecting and preserving farm land is an economic issue - - since there is no real farming anymore. Then, I’ve heard we should protect open space. Don’t confuse open space with public access. There are still some wording issues. The concept is not dead, but as presented, it’s wrong. The median farm size in St. Mary’s County is much smaller than the rest of the country. This is a result of our heritage. We didn’t need 100 acres to plant tobacco and make a living from it.

Joe North, Leonardtown, MD

My dad was in the military and brought us here in 1969 and we begged him to stay. I confess I’m not all that informed on this issue. Want to thank George McKay and his family for keeping us informed and trying to educate us on this issue. I own 14.25 acres. While I understand and support rural preservation, I ask that you please consider . . . I have a son and daughter who are college-educated and want to live in St. Mary’s County, but are unable to afford housing. Mr. Canavan indicated earlier that you will “take

immediate legislative action.” I hope you will take ample time to consider this proposal and inputs received. I’m worried about the young kids. Please consider grandfathering and provisions for family conveyances. Use common sense, the voters will be back.

Joe Densford, P.O. Box 537, Leonardtown, MD, Chair of TDR Task Force

The group that was put together actually was broad-based (listed members). The county has set a policy to pursue rural preservation . . . not how can we deny landowners their rights. Are there still issues? Yes. But issues were fully debated and not all on the Task Force were in agreement, but there is a strong consensus that this proposal will accomplish rural preservation. Yes, there is a heavy burden. I’m not personally impacted (own only about an acre) – but that is not the point. We are trying to find a way to achieve rural preservation and have tried to craft a compromise. The proposal is not perfect and will have to be revisited constantly. The TDR market has been active over the last several years, but it is not doing squat to preserve land. It is functioning, but not achieving goals. You have a tough decision to make. There are real legitimate concerns. We believe in equitable distribution of burden and this is our best effort to do that.

Robin Hahnel, 43244 Gum Spring Drive, Leonardtown, MD(Chair, TDR Task Force)

St. Mary’s County is in the throws of a bad case of sprawl. Growth has been too high and too erratic, but more importantly, growth has been going mostly in the wrong places. Far too much of our new housing stock has been built in the Rural Preservation District and far too little has been built in designated development districts. We haven’t gotten enough affordable housing to bother about out of all the housing that has been built.

The BOCC has done little to address the problem. The 2002 Comprehensive Zoning Ordinance was a disaster before the ink was dry, and five years have now passed with the BOCC not doing anything effective to curb sprawl. Addressing sprawl in St. Mary’s County requires an effective Transfer Development Rights, or TDR program: someone has to pay for land preservation.

Under the present program, land can be preserved if the government buys the land, or buys easements on the land. But this means the taxpayer has to be willing to pay for land preservation, and to date, state and county residents have only been willing to come up with a tiny fraction of the money required.

The Land Preservation Plan adopted in 2005 estimated that if current rates of land preservation and building in the RPD continued, by 2013 there would no longer be 60,000 acres of farm land left to preserve in the RPD.

Land can also be preserved by down zoning. But unless they are compensated, this means that landowners in the RPD are paying for preservation. County landowners have suffered through three down zonings over the past two decades: from one house per acre, to one house per three acres, to one house per five acres. Each down zoning has cost them money, but none was significant enough to stop sprawl in the RPD, and may even have spread houses over rural land faster. Moreover, county landowners have made very clear they will vehemently oppose any significant and effective down zoning without adequate compensation.

Which is where a TDR program comes in. A well-designed TDR program in essence shifts the burden of paying for land preservation off of taxpayers and landowners onto the buyers of new homes that will be built in the county in the decades to come. It makes sure most of those new homes will be built in the development districts.

An effective TDR program requires a healthy TDR market. Unless there is a reliable supply of TDRs and a reliable demand for TDRs, there will not be a healthy TDR market. Right now, there is neither in St. Mary's County, which is why the TDR market is erratic to non-existent. The TDR Task Force proposal is a necessary first step to correct this problem and create a healthy TDR market.

Supply is unreliable at this time because landowners must pay for an expensive survey to determine how much is developable before they can get their TDRs. The proposal solves the supply problem by awarding TDRs on the basis of "deeded" acreage instead of only "developable" land. This will jump start the supply side of the TDR market. Demand is unreliable at present because developers can build in the RPD at a one in five density without purchasing TDRs, and can achieve most of the density increases they desire in development districts without purchasing TDRs to do so. The proposal solves the demand problem by requiring developers to buy TDRs to build in the RPD and in development districts.

The proposal will not solve the problem of sprawl all by itself. It does not steer growth strongly enough out of the RPD into development districts. That is why the APF Task Force recommendation to limit new houses in the RPD to 30% is crucial. While the TDR Task Force proposal will protect more acreage in the RPD than the current Ordinance, it will not protect specific land that is of particular agricultural or environmental value. That is why the recommendations of the RPD Task Force I chair will be important. But since effective land preservation will not happen without a successful TDR program, and a successful TDR program requires a healthy TDR market with a reliable source of supply and demand, the TDR Task Force proposal is a crucial and necessary first step that must be taken. I urge you to pass the TDR Task Force proposal. It should have been passed by the last BOCC, and every day that goes by is another nail in the coffin of preserving the rural character of St. Mary's County.

The following speakers did not record their name and address on the sign-up sheets.

Rocky Rowland

Under old zoning ordinance – I severed TDRs from my land. It took two days to sever when it was one in three on deeded land. Under current program, it took three lawyers and eight months to sever TDRs. Under old program I ended up with 100 acres preserved for perpetuity of the most desirable environmental land. I have 100 acres of density left and can't sell TDRs on it – even under the new proposal. Original zoning was quick and easy. One in five across the board for deeded land is simple and easy. Stop there. Downsize 1 in 10 is downzone in RPD. It doesn't matter how you look at it. The TDR program is working, but other programs are not helping it as they should.

Elected officials absconded with \$400m preserved open space farm land and we haven't held their feet to the fire. TDR program would work if easier and if other programs for preserving land were being implemented effectively. To help TDR program work - - use funds for reason they were collected. Both Ehrlich and Glendenning raided the fund. Hold Annapolis' feet to the fire. A farmer can't lease hunting rights on his land under present zoning ordinance - - you have to have a conditional use club. Many are breaking the law today by leasing to hunters, and the reason is that insurance companies won't cover a single person, but will insure a club.

Chris McKinney, 130 Oak Heights Drive, Goldsboro, NC

I'm a farm girl born and raised in St. Mary's County. I understand the preservation side, but want to come back and build here some day. I see arguments for and against the TDR proposal. How voluntary is it if you are forced to buy TDRs to build? I've heard that the burden should be the same if a family conveyance or just to buy property. I drove five hours to be here because this is that important to me. I agree with the argument to preserve farm land, but this is the wrong way. Please step back and reconsider other alternatives. It's a big part of the affordable housing issue. We want to be able to come back home to live, but we can't afford the extra money it will cost. It is just not fair. There is a better way.

George McKay, Sr.

Before you adopt this proposal, please take the time to talk with other places that have this program -- talk to the farmers and find out how they think it is working. This is a heavy burden on young families having to buy TDRs in the RPD.

Michael Hill, Wanda Lane, Mechanicsville, MD

Born in Park Hall. There are over 800 families I'm related to in St. Mary's County. St. Mary's County is St. Mary's because of these people and I'm here because I believe in freedom. I spent 20 years in service to the country to protect our freedoms. Farmers believe that their land is theirs and a gift from God. You are destroying the freedom of people with all of these rules. To get building permit, you have a lot to go through now. I also have to pay an impact fee, because I'm an impact to the county. I want to live here -- it's a fabulous place. The BOCC are representatives of you - - and as such, I'm sure they'll consider all of your comments.

William Johnson, Morganza, MD

I want to respond to Mr. Densford. The TDR program has been more active in last few years. The reason (people) are reaching out for TDRs, we are running out of land in development district - - such as Grandview Haven. A way was seen to get cheaper property and get 1,000% return on money. Our families have had to money aside to pay inheritance taxes. My parents put aside funds for this. It is just one more pain we have had to suffer. Others don't have to pay inheritance tax. Farms are not a luxury - - take a look at my bills. (Read opinion in May issue of Watershed Watch.) Many are attracted by the rural character here, but we are building up too much. Our family situation is not unique. Many have seen a chance to make a large profit and have sold out and left the county. Please reconsider or we will have to give up, sell out, and get the (heck) out, too.

Larry Dong, 19989 Piney Point Rd., Callaway, MD

I oppose TDRs – I'm new to the area. Additional fee will drive payment up even further. Already \$3-400,000, not \$500,000. I'm from Boston, hard to accept \$7.00/hour pay here. Fortunately my wife has a government job. We are still renting. It's crazy – how can working families afford homes. In other areas, TDRs not going for ½ as much. I know a person who was ready to build, had permit, and couldn't find anyone to sell TDRs for under \$20,000. What about us new people coming in? I have to disagree tremendously as to how this proposal is being presented. Please consider not passing it. Do the affordable and right thing. If farmers don't sell, the land will be preserved.

Justin North, 24590 B Hollywood Rd., Hollywood, MD

My father spoke earlier (owner of 14.25 acres). I'm one of the "poor young fellers" that Mr. McKay spoke about. I have two jobs and so does my wife. We are renting and can't afford to build or to buy land. My parents would like to give one lot to me and one to my sister, but they are .75 acres short. This affects more than just me – Mr. McKay, his children and other families. There should be exemptions for family transfers. Please look at this closely.

Don Strickland ("speaking for myself, not the Farm Bureau, this time")

I've had lots of sleepless nights worrying about the kids that will be affected. But maybe we should take a page out of the Mennonite's book. We should be more concerned about preserving rural character of the county and not giving, giving, giving, to our children. This means a sacrifice by landowners. Unless landowners make sacrifices, it will all be gone.

Johnnie Quade

I'm a general appraiser in Charles, Calvert and St. Mary's and a real estate broker. Born and raised in St. Mary's County. Two brothers in farming business for 20 years. I went a different route. They had to do a subdivision to survive. Glendenning passed tobacco buyout legislation. We are still waiting for the alternative crops to kick in. Brothers eventually had to go into trucking business because they couldn't make payments for the farm. Politicians have a bad habit – there should be less restrictions, not more restrictions. I've seen TDR programs in Montgomery and Prince Georges not work. Cut open space program in half and couldn't afford to fund it. Look at how this proposal affects farmer directly. Appraisals done in opposition to State of Maryland. They have offered little or nothing for easements. 82.83 tax rule says that you are entitled to fair market value. State of Maryland appraisals are not accepted by the federal government. This is stealing -- value not \$3-4,000, its \$12-20,000 for that easement. How can we do this to our county? Don't care if developer or farmer, it's not the right thing. If you sell TDRs, you'll have to pay 28.33% at least in taxes. Get accountants to advise you privately. If I see an injustice, I will speak up. They can throw me in jail if they want to.

Rocky Rowland

I worked on original TDR program. Point then and now is one of the problems I saw in other jurisdictions - - had to retain one dwelling unit, this is not in present or in new. . otherwise, get into extreme problems. Agriculture or RPD parcel without right to build at least one house has caused major problem in other jurisdictions.

Commissioner President Russell announced that as there were no other persons wishing to speak, the hearing was closed for public comment, but will remain open ten additional days for written comments, which can be mailed to the Board of County Commissioners at P.O. Box 653, Leonardtown, MD, or faxed to 301-475-4935. President Russell also indicated that a decision will most likely take more than ten days, as the Board intends to continue gathering information and input from the community in order to make the most informed decision possible on the establishment of a viable TDR Program for St. Mary's County.

ADJOURNMENT

The meeting adjourned at approximately 9:05 p.m.

Minutes Approved by the Board of County Commissioners on _____

Betty Jean Pasko, Senior Administrative Coordinator