

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
CHESEAPEAKE BUILDING
Tuesday, May 26, 2009**

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, Sr. Administrative Coordinator (Recorder)

CALL TO ORDER

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

APPROVAL OF CHECK REGISTER

Commissioner Mattingly moved, seconded by Commissioner Raley, to authorize the Commissioner President to sign the Check Register for checks dated May 26, 2009, as submitted by Finance. Motion carried 5-0.

APPROVAL OF MINUTES

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to adopt the minutes of the Commissioners' meeting of Tuesday, May 19, 2009, as presented. Motion carried 5-0.

PROCLAMATIONS

Proclamations were presented in recognition of the following:

- *New Millennium Management's First Community Volunteer Tent Event – May 30, 2009*
- *Older Americans Month, May 2009*

COUNTY ADMINISTRATOR

1. Draft Agendas for June 2 and 9, 2009
2. **Circuit Court** (*Pete Cucinotta, Drug Court Coordinator*)

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Budget Amendment reducing the Adult Drug Court MD0942, Juvenile Drug Court MD0925, and the Family Services MD0920 Grants in the total amount of \$1,593 and returning these funds to the Supplemental Reserve. Motion carried 5-0

Mandatory furlough and salary reduction plan imposed by the State Administrative Office of the Courts; the County has two temporary employees supported by the Adult and Juvenile Drug Grants and one FTE supported by the Family Services Grant.

3. **Dept. of Economic and Community Dev.** (*Bob Schaller, Director*)

(Carolyn Laray, Mgr., Tourism Division; and Roz Racanello, Dir., Southern Maryland Heritage Area Consortium)

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to adopt and sign the Resolution, with an Effective Date of June 9, 2009, that dissolves the Southern Maryland Travel and Tourism Committee and restructures the administration of the regional marketing efforts under the Southern Maryland Heritage Area Consortium, and that the funding included in the FY2010 budget be re-aligned accordingly. Motion carried 5-0.

(Dennis Nicholson, Exec. Director, Housing Authority)

Commissioner Raley moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the First Amendment to the Rental Allowance Program Grant Agreement from the Community Development Administration of the Maryland Department of Housing and Community Development on behalf of the Housing Authority for St. Mary's County for additional FY2009 funding in the amount of \$9,882, increasing the total grant to \$39,882. Motion carried 5-0.

Commissioner Raley moved, seconded by Commissioner Dement, to sign the Resolution endorsing the Community Development Block Grant application, in the amount of \$800,000, to assist the Housing Authority with the installation of a sprinkler system at Greenview Village Apartments and the acquisition of Indian Bridge Apartments; and approve and authorize the Commissioner President to sign the related Certificate of Assurances and Certificates, from the Maryland Department of Housing and Community Development on behalf of the Housing Authority of St. Mary's County. Motion carried 5-0.

4. **Department of Public Safety** (*Jaclyn Shaw, Mgr., Emergency Mgmt. Div.; and Tom Mattingly, Jr., Communications Mgr.*)

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Memorandum of Understanding with the Mechanicsville Volunteer Fire Department, on behalf of the Department of Public Safety, which outlines the specific terms of agreement for the Mechanicsville Volunteer Fire Department in accepting the Assistance to Firefighters Grant Program award, and to sign the related Budget Amendment, in the amount of \$77,991, using BOCC Emergency Reserve funding to set-up the budget allocation in accordance with the MOU. Motion carried 5-0.

MVFD is the host company for regional grant awarded for the purchase of replacement radios.

5. **Dept. of Human Services** (*Bennett Connelly, Director; and Anita Ray, Substance Abuse Coordinator*)

Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Revised Conditions of Award Acceptance Form for Modification #2 of the FY2009 Substance Abuse Prevention Services Grant from the Department of Health and Mental Hygiene, Alcohol and Drug Abuse Administration, on behalf of the Department of Human Services, and to sign the related Budget Amendment, in the amount of \$3,788, realigning funds in accordance with Modification #2. Motion carried 5-0.

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President Russell to sign the Revised Contract Proposal for Supplement #1 to the FY2009 Substance Abuse Prevention Services Grant from the Department of Health and Mental Hygiene, Alcohol and Drug Abuse Administration, on behalf of the Department of Human Services, and to sign the related Budget Amendment increasing the project budget by \$462. Motion carried 5-0.

Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Revised Contract Proposal documents, the Revised Conditions of Award Acceptance Form, and the three related Budget Amendments, totaling \$24,085, for Supplement #1 to the FY2009 Substance Abuse Treatment Services Grant from the Department of Health and Mental Hygiene, Alcohol and Drug Abuse Administration on behalf of the Department of Human Services. Motion carried 5-0.

6. Dept. of Public Works and Transportation (*George Erichsen, P.E., Director*)

Commissioner Mattingly moved, seconded by Commissioner Raley, to approve and authorize the Commissioner President to sign the Public Works Agreements as listed on Mr. Erichsen's May 20, 2009 memo and as outlined on today's agenda as A., B., and C. Motion carried 5-0.

Motion specifically pertains to the following documents:

- A. Public Works Agreement for Laurel Preserve North Subdivision located in the 6th Election District with an Expiration Date of July 1, 2010.
The roads included in this Agreement are: Laurel Grove Road (810') and Laurel Circle (3,059').
- B. Public Works Agreement for Laurel Preserve South Subdivision located in the 6th Election District with an Expiration Date of July 1, 2010
The roads included in this Agreement are: Laurel Grove Road (665', Woodside Court (578') and Festoon Court (382').
- C. Public Works Agreement for Woodland Park of Wildewood located in the 8th Election District with an Expiration Date of April 1, 2010.
The roads included in this Agreement are: Gray Wolf Street (478'), Snow Leopard Drive (565'), Ringtail Drive (437'), Swift Fox Drive (1,411'), Beaver Creek Drive (2,378'), Woodland Park Road (1,399'), and River Otter Drive (338').

7. Department of Aging (*Lori Jennings-Harris, Dir.; and Peggy Maio, Fiscal Supv.*)

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Memorandum of Understanding with the St. Mary's Home for the Elderly on behalf of the St. Mary's County Department of Aging for reimbursement of a maximum of 14,600 meals for a total amount not to exceed \$7,300 for FY 2010. Motion carried 5-0.

Re: Congregate Housing Services Program

8. St. Mary's County Library (*Kathleen Reif, Library Director*)

Item presented after the main agenda item to Approve Final Fiscal Year 2010 Budget and Set Tax Rates.

DEPT. OF LAND USE & GROWTH MANAGEMENT: DECISION ON PROPOSED TEXT AMENDMENT TO ALLOW ELECTRONIC, CHANGEABLE COPY SIGNS FOR ON-PREMISE ADVERTISING

Present: Derick Berlage, Director
Phil Shire, Deputy Director
Yvonne Chaillet, Planner/Zoning Administrator

The BOCC Public Hearing was held May 12, 2009. Citing sign proliferation and safety concerns, one citizen provided testimony opposing the proposed text amendment. During the 10-day open record period, staff received written comments from Tom Hodges, President of Tom Hodges Auto Sales, Inc. in support of the proposed text amendment.

Ms. Chaillet stated that since the public hearing, a substitution clause (Section 65.3.4, paragraph i.) was added to the proposed text amendment in response to Board discussion and comments provided by Mr. David Weiskopf, Deputy County Attorney, at the BOCC public hearing, and in support of the Supreme Court's decision regarding "content neutral" signage.

Ms. Chaillet clarified that the text amendment provides for one freestanding, on-premise electronic changeable copy sign in the Development Districts, Village Centers, and Town Centers only and reviewed each of the supporting requirements outlined in the draft ordinance. Electronic changeable copy signs will not be allowed in the Rural Preservation District (RPD) and can't be used to replace existing "static" signs in the RPD. Ms. Chaillet also reviewed language in the text amendment relative to nonprofit and civic organizations.

Discussion ensued regarding enforceability, fairness, and concern for sign proliferation.

Commissioner Jarboe moved to deny the proposed Zoning Ordinance Text Amendment to allow electronic changeable copy signs. The motion was not seconded.

Commissioner Raley moved, seconded by Commissioner Mattingly, that with regards to the proposed text amendment to Chapters 65 and 90 of the Zoning Ordinance to allow electronic, changeable signs for on-premise advertising, to delay the vote until the next Board of County Commissioners' regular meeting. Motion carried 4-1 (Commissioner Jarboe voted nay).

DEPT. OF LAND USE & GROWTH MANAGEMENT: DECISION ON PROPOSED TEXT AMENDMENT TO ALLOW OFF-SITE ADVERTISING FOR THE SALE OF RESIDENTIAL PROPERTY

Present: Derick Berlage, Director
Phil Shire, Deputy Director
Yvonne Chaillet, Planner/Zoning Administrator

The BOCC Public Hearing (PH) was held May 12, 2009. Testimony was provided by five citizens at the PH. No additional comments were received during the subsequent 10-day open record period. A letter of support was received from the So. MD Association of Realtors after the open record period expired. Ms. Chaillet stated there have been no changes in the draft ordinance; i.e., it is the same version as presented at the PH.

The proposed text amendment allows no more than three off-site directional signs within five miles of the advertised property and contains a sunset clause terminating the subparagraph from the zoning ordinance on June 30, 2010. The zoning ordinance currently allows one on-site sign and addresses open house temporary signage.

Commissioner Dement suggested reducing the limit for off-site directional signs from three to one. Commissioner Jarboe suggested working with the Chamber of Commerce and the Realtors Association to have a kiosk workstation at the Visitor's Center to view information about listed properties in the County.

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve the proposed Zoning Ordinance Text Amendment to allow off-site directional signs for the sale of residential property, effective June 9, 2009, contingent upon changing the limit number for off-site signs from three to one in Paragraph (4) (a). Motion carried 5-0.

APPROVE FINAL FISCAL YEAR 2010 BUDGET AND SET TAX RATES

Present: Elaine Kramer, Chief Financial Officer
Jeannett Cudmore, Deputy Director, Dept. of Finance

The final budget package for fiscal year beginning July 1, 2009 and ending June 30, 2010, was presented and summarized by Ms. Kramer.

FY2010 Approved Revenues

Total – General Fund Revenues	\$195,203,995
Total – Other Financing Sources	4,100,000
Total General Fund Sources	\$199,303,995

Total General Fund Sources is \$3m less than FY2009 approved budget.

Commissioner Raley moved, seconded by Commissioner Dement, to approve and sign the Revenue Ordinance for FY 2010, which sets the tax rates for FY2010, thus setting the property and income tax rates at the same rate as FY2009. Motion carried 4-1 (Commissioner Jarboe voted nay).

Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and sign the Appropriations Ordinance for FY2010, which summarizes the operating appropriations as well as setting the budgets for the capital projects as well as the various enterprise and revolving funds. Motion carried 4-1 (Commissioner Jarboe voted nay).

Commissioner Mattingly moved, seconded by Commissioner Dement, to approve the FY 2010 Budget, as submitted and summarized on the schedules and documents

presented, and to sign the “budget signature” page reflecting our approval of the budget. Motion carried 4-1 (Commissioner Jarboe voted nay).

COUNTY ADMINISTRATOR, CONTINUED

8. St. Mary’s County Library (*Kathleen Reif, Library Director*)

Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the letter of intent to be sent with an application for the State’s FY2011 County Library Capital Grants Program, for \$818,000. Motion carried 5-0.

Commissioner Mattingly moved, seconded by Commissioner Dement, to authorize the Library to make such revisions to the application as might be necessary, subject to review and approval by the County Administrator and the Chief Financial Officer, as long as such changes do not alter the project costs or increase the County’s share of costs by year, as reflected in the capital budget. Motion carried 5-0

9. Task Force Appointments (*John Savich, County Administrator*)

Commissioner Dement moved, seconded by Commissioner Mattingly, to appoint F. Elliott Burch, Jr., Joseph Densford, Shelby P. Guazzo, and Susan McNeill to the Metropolitan Commission Task Force, with no specific term to expire (legislation expiration date is August 31, 2010). Motion carried 5-0.

Commissioner Mattingly requested clarification as to the County’s responsibility to fund House Bill 1559’s requirement regarding staffing for the Task Force.

Mr. Savich will discuss with the Delegation and provide clarification to the Board.

COMMISSIONERS’ TIME

The Commissioners highlighted upcoming events, events attended over the past week and personal interest items.

RECESS

The Board recessed at approximately 12:00 PM.

JOINT BOARD OF COUNTY COMMISSIONERS (BOCC) AND PLANNING COMMISSION (PC) PUBLIC HEARING - PROPOSED ZONING TEXT AMENDMENT TO ALLOW FOR THE EXTENSION OF TIME LIMITS IMPOSED BY THE COMPREHENSIVE ZONING ORDINANCE OR THE SUBDIVISION ORDINANCE

BOCC Present: Commissioner President Francis Jack Russell
Commissioner Kenneth R. Dement
Commissioner Lawrence D. Jarboe
Commissioner Thomas A. Mattingly, Sr. (absent)
Commissioner Daniel H. Raley

PC Present: Steven Reeves, Chairman
Lawrence Chase
Merl Evans
Shelby Guazzo
Brandon Hayden
Susan McNeill
Martin Siebert

Presenters: Phil Shire, Deputy Director, Land Use & Growth Management
Jeff Jackman, Sr. Planner, Land Use & Growth Management
Bob Schaller, Director, Dept. of Economic and Community Dev.

Planning Commission Chair, Steve Reeves, opened the Planning Commission meeting at 6:30 PM. Following several Planning Commission agenda items, Chairman Reeves turned the meeting over to Commissioner President Jack Russell to conduct the joint public hearing.

Commissioner President Russell noted that the Board of County Commissioners' meeting was back in session and would take up one item of business before opening the joint public hearing.

METROPOLITAN COMMISSION TASK FORCE APPOINTMENT

Commissioner Dement moved, seconded by Commissioner Raley, to appoint James Spence to the Metropolitan Commission Task Force. Motion carried 4-0.

JOINT PUBLIC HEARING

Commissioner President Russell opened the Joint Public Hearing at approximately 6:35 pm and stated the purpose of the public hearing is to consider and receive public comment on proposed text amendments to allow for the extension of time limits imposed by the Comprehensive Zoning Ordinance (CZO) or the Subdivision Ordinance.

Mr. Jackman announced that notice of the public hearing was advertised in the May 6 and 13, 2009 editions of the Enterprise newspaper. Information was also posted on the County's website and available at the Public Information Office and the Libraries. The proposed amendments were presented to the BOCC on April 28, 2009.

Mr. Jackman reviewed the proposed amendments, as presented in the Public Hearing Staff Report, dated May 18, 2009. The proposed amendments add language to support extending the validity period of approved projects that expire between January 1, 2009, and December 31, 2010, for an additional two years, at the discretion of the Planning Director.

Mr. Schaller provided background and rationale for the proposed Text Amendments relative to the economic slowdown. The number of County permits issued by LU&GM is down by 25%, and residential construction is off by 50% compared to this time last year.

Mr. Schaller stressed the importance of having projects ready to begin construction in conjunction with an economic recovery. Mr. Schaller referred to a letter from the Maryland National Capital Building Industry Association (BIA), dated March 24, 2009, requesting relief for approved projects, building permits, and site plans.

Mr. Shire reviewed Attachment 1 of the Public Hearing Staff Report summarizing relevant approval limits for the Department of Public Works and Transportation (DPW&T), St. Mary's County Health Department, LU&GM, Soil Conservation District (SCD), and the State Highway Administration (SHA) and the Analysis Section, covering the current permit and approval limitations contained in the CZO and the Subdivision Ordinance. Mr. Shire added that he has received numerous phone calls and emails indicating the need is widespread, and that there are some relevant projects dating back to 2008.

Ms. McNeill questioned the status of HB (House Bill) 921 that recommended extending the expiration dates of construction or development permits approved between January 1, 2008 through June 30, 2010, and page 5, line 4 (D), that states the beginning period starts on January 1, 2008. Ms. Christy Chesser, County Attorney, responded that the County enacts and maintains its own zoning ordinance and that legislation as referenced in HB 921 is intended for those state permits that the County participates in pursuant to State regulations.

Commissioner Raley questioned if the period should include 2008. Mr. Shire said he will distribute a list of relevant 2008 projects to the Commissioners within the 10-day open record period. Referencing the BIA letter, Commissioner Russell questioned the request to defer impact fees, fees in lieu regarding TDRs (Transferable Development Rights), and APF (Adequate Public Facility) fees, and the impact that deferral of fees would have on the FY2010 budget. Mr. Shire responded that discussions have taken place and it was communicated to BIA that those deferrals could not be accommodated and are not contained in the draft text amendment.

Commissioner President Russell opened the meeting for public testimony at 6:50 PM.

Public Testimony

F. Hamer Campbell, Jr., Dir. of Government Affairs, Maryland National Capital Building Industry Association; 1738 Elton Rd. Suite #200, Silver Spring, MD 20903

Mr. Campbell provided testimony in support of the two proposed text amendments. Mr. Campbell clarified HB 921 was the original legislation and that Senate Bill 958 is actually the Bill that passed.

Mr. Campbell said the referenced Maryland National Capital Building Industry Association letter was provided to all of the association's jurisdictions; i.e., Montgomery, Prince Georges, St. Mary's and Charles Counties and all have responded that fees cannot be deferred as they are a necessary source of revenue. Mr. Campbell said the legislation helps his industry and helps those seeking a home. He said they are moving ahead with legislation in the other counties mentioned. Relative to association membership, there once were 750 firms, now there's 600. He cautioned that two years may not be long enough as he may need to come back in another year and a half to request additional extensions. Mr. Campbell added that he was there on behalf of Guy Curley, VP, BIA, who could not attend the meeting.

Tom Farasy, President, Maryland National Capital Building Industry Association Terra Verde Comm., 3044 Browstone Ct., Burtonsville, MD 20866

Mr. Farasy provided testimony in support of the proposed text amendments. He said this economic recovery will be different than what was experienced in the mid-70's and early 90's -- not marked by significant price increases. He stressed the importance of the County putting measures in place to encourage home building and hiring workers when the economy recovers versus reinstating plans. Mr. Farasy said the amendments send an important message to lenders and capital markets; i.e., that St. Mary's is a place where investment is encouraged, its leaders understand the current economics, and that the County puts measures in place to protect investment made in its County.

Robin Guyther, P. O. Box 502 Leonardtown, MD

Mr. Guyther said he was there in support of the amendments and that he also supports Mr. Shire's proposal to back-up the start date to December 1st and that October is fine with him.

Paula Martino, 844 Old Leonardtown Rd., Hughesville, MD (Government Affairs Director, Southern MD Association of Realtors) Ms. Martino said that she was in attendance as a show of support for the proposed amendments.

A copy of written testimony in support of the proposed amendments, a letter dated May 26, 2009 from Richard A. Miller, Treasurer, H.W. Miller & Sons, Inc., was provided to the Recorder to be included in the public hearing record.

Commissioner President Russell closed the public hearing at 7:00 PM and set the ten day open record period.

ADJOURNMENT

Commissioner Dement moved, seconded by Commissioner Jarboe, to adjourn the meeting of the Board of County Commissioners. Motion carried 4-0.

Minutes Approved by the Board of County Commissioners on _____

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