

**ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS' MEETING  
GOVERNMENTAL CENTER  
Tuesday, July 10, 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.

**AGENDA APPROVAL**

**Commissioner Jarboe moved, seconded by Commissioner Raley, to approve the agenda as distributed.**

**APPROVAL OF CHECK REGISTER**

**Commissioner Mattingly moved, seconded by Commissioner Jarboe, to authorize the Commissioner President to sign the Check Register dated July 10, 2007, as presented. Motion carried 5-0.**

*Commissioner Russell noted his request for mileage reimbursement will be pulled and re-directed to the State of Maryland.*

**APPROVAL OF MINUTES**

**Commissioner Mattingly moved, seconded by Commissioner Dement, to adopt the minutes of the Commissioners' meeting of June 26, 2007, as amended. Motion carried 5-0.**

*Commissioner Raley clarified the change to the minutes.*

**INTRODUCTION:** Bob Schaller, Director, Dept. of Economic & Community Development (DECD)

Mr. Bob Schaller, new Director, DECD, was introduced and welcomed by the Board. Before assuming the DECD Director position, Dr. Schaller served as the department chair and Professor for Business, Economics and Legal Studies at the College of Southern Maryland.

## **RETIREMENT RECOGNITION: Monika Kopel, County Commissioners' Office**

Monika Kopel was recognized by the Board for over 12 years of dedicated service with St. Mary's County Government.

## **COUNTY ADMINISTRATOR**

1. Draft Agendas for July 17 and 24, 2007
2. **Dept. of Economic and Community Development** (*Bob Schaller, Director; Dennis Nicholson, Executive Director or Housing*)

**Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Emergency Shelter Grant application, Federal Fiscal Year 2007, for funds to finance homeless prevention activities and services provided to St. Mary's County residents. Motion carried 5-0.**

3. **St. Mary's County Dept. of Social Services** (*Jeannett Cudmore, Deputy Director, Department of Finance*)

**Commissioner Jarboe moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the Budget Amendment reducing the FY2007 BOCC Appropriation Reserve by \$1,300 and increasing the Department of Social Services account for burial expense reimbursements. Motion carried 5-0.**

4. **St. Mary's County Circuit Court** (*Judge Michael J. Stamm, Circuit Court; William Tench, Court Administrator*)

**Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Budget Amendment for \$58,386 increasing Project MD0825, Maryland Drug Treatment Court Commission, aligning the project with the actual grant amount, and decreasing the Supplemental Reserve, effective July 1, 2007. Motion carried 5-0.**

5. **Dept. of Recreation, Parks and Community Service** (*Phil Rollins, Director*)

**Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the FY2008 Waterway Improvement Fund Application and Project Agreement for the Sanitary Service Contract for St. Mary's County, in the amount of \$25,000. Motion carried 5-0.**

6. **Dept. of Public Safety** (*Dave Zylak, Director; Joseph Guyther, Mechanicsville Vol. Fire Dept.*)

**Commissioner Jarboe moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the Waterway Improvement Fund Application and Project Agreement, as a pass through grant to the Mechanicsville Volunteer Fire Department for the acquisition of marine rescue equipment, the Matching Fund Fire & Rescue Grant Agreement Form, and the related sub-recipient agreement. Motion carried 5-0.**

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

**Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Waterway Improvement Fund Application and Project Agreement for the Kingston Creek Waterway Improvement Taxing District Project, through the State's DNR FY2009 Waterway Improvement Fund. Motion carried 5-0.**

8. **Dept. of Land Use and Growth Management** (*Denis Canavan, Director*)

Mr. Canavan provided a status report on the following land use projects: Transferable Development Rights (TDRs), Adequate Public Facilities (APF) Task Force, Work Force Housing, Comprehensive Water and Sewerage Plan, Ryken High School Rezoning, APZ-2 Residence Restriction, Office Business Park (OBP) Text Amendment, and Residential Sprinkler Systems.

9. **Boards, Committees, and Commission Appointments** (*John Savich, County Administrator*)

Mr. Savich read the list of appointments to Boards, Committees, and Commissions as follows:

BOARDS, COMMITTEES AND COMMISSIONS  
EXPIRE

TERMS TO

*Airport Advisory Committee*

Lt. Col. A. H. Richardson

12/31/2008

*Commission on Aging*

Elfreda Mathis

6/30/2010

Kathie A. Reich (*reappointment*)

6/30/2010

Sandra Wheeler

6/30/2010

Commission on the Environment

Larry Hartwick  
12/31/2010

Commission for Women

Susan Gough  
6/30/2010

Eve Taylor  
6/30/2010

Andree Wells (*reappointment*)  
6/30/2010

Ethics Commission

Joseph B. Bush (*reappointment*)  
6/30/2010

Arthur Goeller (*reappointment*)  
6/30/2010

Robert W. Denning (*Alternate Member*)  
6/30/2009

Historic Preservation Commission

Susan Erichsen  
6/30/2009

Robert Gibbs (*reappointment*)  
6/30/2010

Housing Authority Board

Jan Barnes (*reappointment*)  
6/30/2010

Robert B. Gant, Jr. (*reappointment*)  
6/30/2010

Andrew Kozak (*reappointment*)  
6/30/2010

Human Relations Commission

Sanjay Apte (*reappointment*)  
6/30/2011

Metropolitan Commission

Brenda L. Hanson  
6/30/2010

Charles V. Owen  
12/31/2008

Nursing Center Governance Board

Wayne Reeves (*reappointment*)  
6/30/2010

Ernest C. Williams, Jr. (*reappointment*)  
6/30/2010

Plumbing Board

Charles Downs (*reappointment*)

6/30/2010

David Shapiro (*reappointment*)

6/30/2010

Senior Property Tax Credit Review Committee

Julie B. Randall

10/1/2007

Social Services Board

Judy Gilman (*reappointment*)

6/30/2010

Richard L. Buckler

6/30/2009

Tri-County Animal Shelter Advisory Board

Lynda Andrus (*reappointment*)

6/30/2011

Zoning Board of Appeals

Ronald Ray Payne, Sr. (*second alternate*)

6/30/2009

**Commissioner Jarboe moved to make the appointments as read by the County Administrator, with the exception of MetCom, which should be voted on separately. The motion was not seconded.**

Commissioner Raley offered a second motion.

**Commissioner Raley moved, seconded by Commissioner Mattingly, to approve the appointments as cited by the County Administrator. Motion carried 3-2.**

Commissioners Jarboe and Dement voted against the motion. *Commissioner Jarboe noted his concern that a reappointment should have been made to the Metropolitan Commission rather than appointing a new member, but that he does not have any concerns with the individuals appointed.*

**DEPARTMENT OF LAND USE AND GROWTH MANAGEMENT: ADOPTION OF ORDINANCE APPROVING THE ZONING TEXT AMENDMENT CHANGES TO THE TRANSFERABLE DEVELOPMENT RIGHTS (TDRS) PROGRAM AS GOVERNED BY CHAPTERS 26 AND 32 OF THE ZONING ORDINANCE**

Present: Denis Canavan, Director

Mr. Canavan reviewed the changes to the draft Ordinance that were made as a result of the Board's comments at the June 26, 2007, Board of County Commissioners meeting; i.e., in Section 26.11 changed the number of children exempted lots from three (3) to two (2) lots, changed the length of ownership of the lot by a child from five (5) years to seven

(7) years, and further defined the term “children.” Mr. Canavan continued by reviewing the changes to the St. Mary’s Comprehensive Zoning Ordinance, referencing Exhibit A, which is a mark-up of Chapter 26 “Transferable Development Rights (TDRs)” and Chapter 32 “Property Development Regulations”. The mark-up shows the changes and additions made to both chapters.

Commissioner Raley questioned if footnote 8 (Schedule 32.1 Development Standards) would be eliminated. Mr. Canavan replied that footnote 8 has been modified to reference grandfathering in accordance with Section 26.13. Mr. Canavan read footnote 8 and stated the footnote is applicable until July 24, 2007 (the Ordinance Amendment Effective Date).

LU&GM will be publishing informational brochures and will be placing information on the website regarding how changes will be implemented.

Commissioner Mattingly questioned when the fee in lieu will be set. Mr. Canavan replied  
That this will happen after the comparables are determined. The Director, DECD will determine the average price of TDRs over the next 12 months and will bring back to the Board next year to determine the fee in lieu amount. It was questioned if the fee in lieu should be established when the ordinance amendment becomes effective. Mr. Canavan replied that there is no database with data to set the price of a TDR and suggested using the comparable price per acre as established by the Maryland Agriculture Land Preservation Program. Mr. Canavan then offered to come back to the Board with a recommendation. It was questioned if the exact value for TDRs over the past year is known. The response was no. The County Attorney, Ms. Christy Chesser, clarified that the fee in lieu (cost) is not included in the Final Instruments and is not recorded in any document. Mr. Savich replied that he will follow-up regarding disclosure requirements and get back to the Board with that information.

Commissioner Raley asked about tracking TDRs; e.g., how does LU&GM track when they are taken off and put back on a piece of property. Mr. Canavan replied that a method to serialize and track TDRs is being put in place and meetings with Legal and the Office of Land Records, who records all three legal instruments, are in progress.

Commissioner Mattingly requested that a history/record be created of TDRs that have been transferred and asked Ms. Chesser if the ordinance can be adopted as presented or if additional language regarding the establishment of a fee for the first year needs to be included. Ms. Chesser replied that the existing language can be used (don’t need to change anything); and the Director, DECD, will do research and come back before the Board with information for the coming year.

Mr. Savich clarified that the Director, DECD, will present the fee in lieu within 30 days following the end of a fiscal year. The BOCC will have an additional 30 days to increase or decrease the DECD’s annual determination.

**Commissioner Mattingly moved, seconded by Commissioner Raley, to approve and sign the Ordinance regarding the Zoning Text Amendments on the Transferable Development Rights (TDRs) zoning provisions at Chapters 26 and 32 of the St. Mary's County Comprehensive Zoning Ordinance previously approved at the June 26, 2007, Board of County Commissioners meeting, with an Effective Date of July 24, 2007.**

**Motion carried 4-1.** Commissioner Jarboe voted against the motion noting that he voted against the ordinance as written because of affordable housing concerns. Stating that "future affordable housing will be eliminated for three-fourths of the County," Commissioner Jarboe said he hopes the promise to correct this during future legislative review is kept.

### **DEPARTMENT OF LAND USE AND GROWTH MANAGEMENT: BRIEFING ON THE RELIGIOUS FREEDOM SCENIC BYWAY PROJECT AND CORRIDOR MANAGEMENT PLAN BY LARDNER/KLEIN, PROJECT CONSULTANTS**

Present: Jim Klein, Lardner/Klein Landscape Architects, P. C., consultant  
Teresa Wilson, Historic Preservation Planner and Project Manager

St. Mary's and Charles Counties have a grant from the Maryland State Highway Administration to develop a Corridor Management Plan for the Religious Freedom Scenic Byway, which runs through western Charles County and through St. Mary's County from Route 234 to Route 5, ending at Point Lookout. Mr. Klein provided an overview of the project and the process of developing a corridor management plan. A handout, "Religious Freedom Byway, Exploring the Roots of American Religious Toleration..." was provided to the Commissioners.

### **COMMISSIONER'S TIME**

#### Commissioner Dement

Along with Commissioner Russell, presented a proclamation to Liz Lyall, who recently retired from the Health Department with 28 years of service.

Presented a County seal to the recently-opened Chipotle Mexican Grill restaurant at the intersection of Rt. 235 and Chancellor's Run Road. The ribbon-cutting was last week.

Presented a 50<sup>th</sup> wedding anniversary proclamation to Richard and Mary Ann Wescott.

Presented a 70<sup>th</sup> birthday proclamation to Cecilia Hill, a retired County employee.

Extended a happy 50<sup>th</sup> birthday greeting to his nephew.

Stopped by the St. Mary's County Employees Association picnic and the Hollywood Fire Dept. 50<sup>th</sup> anniversary and parade, large attendance for both events.

#### Commissioner Mattingly

Attended the meeting and luncheon at the College of Southern Maryland with Senator Cardin and Congressman Hoyer who also toured the County and military facilities.

Livestock show Saturday and Sunday, Southern MD Invitational Livestock Expo, partially funded through the Ag Commission, 3<sup>rd</sup> year, 240 participants.

Attending MACo in Annapolis tomorrow, one of the topics of discussion will be the State's budget. Lawn mower races at Bowles' Farm, July 13<sup>th</sup> and 14<sup>th</sup>, to benefit 7<sup>th</sup> District Rescue, CNN will video some on the 13<sup>th</sup>.

Extended anniversary congratulations to Commissioner Raley and his wife Ann.

Extended happy birthday to granddaughter, Lexi.

#### Commissioner Jarboe

One year ago, CADD demo at the Forrest Tech Center, Law Enforcement mapping. The technical center and Chopticon have been mapped. Great Mills High School (GMHS) was in the process of being mapped, but now is in limbo because of funding constraint (grant funds ran out). Mr. Savich will find out how much it will cost to complete mapping GMHS; availability of grant funding.

#### Commissioner Raley

Regarding the Livestock Expo; Ag Commission has grown considerably and is getting increased exposure.

Celebrated 35<sup>th</sup> wedding anniversary.

Presented two 80<sup>th</sup> birthday proclamations: Edward Smith and Charles Gladden.

#### Commissioner Russell

Attended Freedom Fest and the Employee Luau at Fitzies, both jobs well done.

Went to the Northern Senior Center, sat in on some of the four-year plan presentation.

New free outdoor performances at the College of Southern Maryland, Leonardtown campus. Kickoff performance is tonight at 6:30 p.m. The Calvert Dance Band is performing.

Will be visiting two local businesses this afternoon: Schoenbauer Furniture Service and Performance & Custom American Motorcycles

### **SOUTHERN MD AGRICULTURAL DEVELOPMENT COMMISSION: "MARYLAND BUY LOCAL WEEK"**

Present: Dr. Christine Bergmark, Ph.D., Executive Director

July 21 – 28, 2007 is "Buy Local Week," an event to encourage everyone to purchase local produce and products or dine at restaurants featuring local farm food and wine. Dr. Bergmark challenged everyone to "pledge to eat at least one item from a local farm every day" during "Buy Local Week" and presented a basket filled with local produce and products.

### **MOTION TO ENTER INTO EXECUTIVE SESSION**

**Commissioner Mattingly moved, seconded by Commissioner Dement, to enter into Executive Session for the purpose of discussing Real Property and Litigation.**

*Commissioner Raley recused himself from litigation discussions. Motion carried 5-0.*

## **EXECUTIVE SESSION**

### **Real Property**

**Present:** Commissioner Francis Jack Russell, President  
Commissioner Vice President Daniel H. Raley  
Commissioner Kenneth R. Dement  
Commissioner Lawrence D. Jarboe  
Thomas A. Mattingly, Sr.  
John Savich, County Administrator  
Christy Chesser, County Attorney  
Liz Passarelli, Real Property Manager  
Phil Rollins, Director, Dept. of Recreation, Parks & Community Services

Donna Gebicke, Recorder

**Authority:** Article 24, Section 4-210(a)11

**Time Held:** 11:42 am - 12:21 pm

**Action Taken:** Commissioners discussed potential property acquisition.

### **Litigation**

**Present:** Commissioner Francis Jack Russell, President  
Commissioner Kenneth R. Dement  
Commissioner Lawrence D. Jarboe  
Thomas A. Mattingly, Sr.  
(Commissioner Daniel H. Raley recused himself and was *not* present)  
John Savich, County Administrator  
Christy Chesser, County Attorney  
George Erichsen, Director, Dept. of Public Works and Transportation

Donna Gebicke, Recorder

**Authority:** Article 24, Section 4-210(a)8

**Time Held:** 12:22 pm - 12:35 pm

**Action Taken:** Commissioners discussed litigation matter.

## **ACTION FROM EXECUTIVE SESSION (IN OPEN SESSION):**

**Commissioner Mattingly moved, seconded by Commissioner Jarboe, to direct staff to proceed as discussed in Executive Session on Real Property matters. Motion carried 4-0.**  
(Commissioner Raley was not present for the motion.)

**Commissioner Jarboe moved, seconded by Commissioner Mattingly, to direct staff to proceed as discussed in Executive Session on litigation matters and to authorize the Commissioner**

**President to sign the Right-of-Entry Agreement as discussed. Motion carried 4-0.**  
(Commissioner Raley was not present for the motion.)

### **VISITS TO LOCAL BUSINESSES**

The Commissioners visited the following local businesses:

- 2:00 – 3:00 pm Schoenbauer Furniture Service, Inc., 30507 Potomac Way, Charlotte Hall
- 3:15 – 4:15 pm Performance & Custom American Motorcycles, 38576 Brett Way,  
Mechanicsville

### **ADJOURNMENT**

The meeting adjourned (completed business visits) at approximately 4:30 pm.

Minutes Approved by the Board of County Commissioners on \_\_\_\_\_

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Betty Jean Pasko, Senior Administrative Coordinator