

**ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS' MEETING  
CHESEAPEAKE BUILDING  
Tuesday, July 21, 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 Raley moved, seconded by Commissioner Mattingly, to authorize the Commissioner President to sign the Check Register for checks dated July 21, 2009, as submitted by staff. Motion carried 5-0.**

**APPROVAL OF MINUTES**

**Commissioner Jarboe moved, seconded by Commissioner Dement, to adopt the minutes of the Commissioners' meeting of Tuesday, July 14, 2009, as presented. Motion carried 5-0.**

**COUNTY ADMINISTRATOR**

1. Draft Agendas for July 28 and August 4, 2009
2. **Dept. of Finance and St. Mary's Co. Public Schools**  
*(Elaine Kramer, CFO; Dr. Michael Martirano, SMCPS Superintendent; and Patty VanRyswick, Budget Analyst)*

**Commissioner Mattingly moved, seconded by Commissioner Dement, to approve the submission and authorize Commissioner President Russell to sign the form evidencing agreement with the Superintendent on the items identified as excludable non-recurring costs, which totals \$8,780,403, and also that we sign the letter to MSDE transmitting such form. Motion carried 5-0.**

*Motion pertains to Maryland State Dept. of Education submission form (and BOCC consent letter) for excludable non-recurring costs based on the BOE's Approved Budget for FY2010.*

**Commissioner Dement moved, seconded by Commissioner Jarboe, to approve the budget summary, including the categories of expenditure and FTEs for FY2010 for the Board of Education, as presented in our letter dated July 21, 2009 which reflects the revised category totals as requested by the Board of Education, and to sign the letter to the Board of Education evidencing this action. Motion carried 5-0.**

**3. Dept. of Land Use and Growth Management (*Derick Berlage, Director*)**

*(Adam Knight, Deputy Code Official)*

**Commissioner Raley moved, seconded by Commissioner Mattingly, to approve and authorize Commissioner President Russell to sign the revised By-Laws of the St. Mary's County Plumbing and Fuel Gas Board. Motion carried 5-0.**

*(Sue Veith, Environmental Planner)*

**Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President Russell to execute the Critical Area Commission Grant Agreement, Project MD1027, from the State of Maryland, Department of Natural Resources, on behalf of the Department of Land Use and Growth Management, for revenue only reimbursement to offset salary expenses for those Environmental Planners associated with review of the development projects in the Critical Area in the amount of \$24,000. Motion carried 5-0.**

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

**Commissioner Dement moved, seconded by Commissioner Raley, to direct staff to proceed with scheduling a public hearing regarding the petition to terminate the dedication to public use of a portion of Page Road, located in the Spring Ridge Subdivision. Motion carried 5-0.**

**Commissioner Dement moved, seconded by Commissioner Jarboe, to authorize and approve the Commissioner President to sign the Right-of-Entry Agreements for the Burch, Hills, and Kessler sites renewing said agreements for debris management and burn sites associated with the Department of Public Works and Transportation's Disaster Response: Debris Management Operational Plan. Motion carried 5-0.**

**Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to execute the internal project Budget Amendment in the amount of \$20,417 and to authorize the requesting department to proceed with implementation of a solar power sustainable initiative as part of the Emergency Equipment Shelter Project, PF0705. Motion carried 5-0.**

**Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Storm Drainage and Revertible Grading Easement Agreement between the Board of County Commissioners and Jacqueline A. Lozier and Park Place California, LLC as submitted by staff. Motion carried 5-0.**

*(Jacqueline Fournier, Transportation Mgr.)*

**Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner President Russell to execute the JARC III grant Inter-Governmental Agreement, Project MD1076, with the Department of Social Services, in the amount of \$40,000, the Certification of Lobbying, and the related Budget Amendment to increase the project by \$5,000. Motion carried 5-0.**

**Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President Russell to execute the Memorandum of Understanding between St. Mary's County and Charles County, on behalf of the Department of Public Works and Transportation Division of Solid Waste, for the disposal of residential and municipal solid waste for the Project Period as specified in the MOU. Motion carried 5-0. *Supersedes MOU signed on June 23, 2009.***

**5. Dept. of Aging *(Peggy Maio, Fiscal Supervisor)***

**Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to execute the revised FY2009 Medical Adult Day Services DHMH Service Grant MOU/Contract Proposal documents between the Department of Health and Mental Hygiene and the St. Mary's Board of County Commissioners (St. Mary's Office on Aging) in the amount of \$80,432, and the related Budget Amendment to decrease the MADS 205 funding by \$2,899. Motion carried 5-0.**

**DEPARTMENT OF LAND USE AND GROWTH MANAGEMENT:  
REQUEST EXTENSION OF TIME TO CONSIDER THE PROPOSED WINERY  
ZONING TEXT AMENDMENT**

Present: Derick Berlage, Director

Staff introduced the zoning text amendment to allow a winery in the RPD at its first reading before the Board of County Commissioners (BOCC) on March 24, 2009. Since that time, the Planning Commission (PC) held a public hearing on April 27, 2009. Following the open record period, the PC voted 5-2 on May 26, 2009, in favor of the text amendment allowing a winery in the RPD and the RL Transitional Planning Area as described in the Lexington Park Development District Master Plan.

The BOCC held its public hearing on June 23, 2009. The 125-day text amendment period will expire on July 27, 2009. Due to complexities involving local agriculture and tourism, and ensuring compatibility with land use area goals, staff requested extending the 125 day period from July 27, 2009, to October 27, 2009 (approximately 90 days).

There was discussion about how the 90-day extension could delay winery development and Commissioner Dement suggested a shorter time extension of 60 days.

**Commissioner Dement moved, seconded by Commissioner Mattingly, to approve the request for an extension of time to consider the zoning text amendment to allow a winery for an additional 60 days. Motion carried 4-0, with one abstention.**

*(Commissioner Raley abstained noting that he has requested and is awaiting a potential conflict of issue determination from the Ethics Commission.)*

#### **DEPT. OF RECREATION AND PARKS:**

Present: Phil Rollins, Director

Mr. Rollins presented concept plans for both the Carver Heights Community Park and the Unified Committee on African American Contributions (UCAC) Civil War Memorial at the John C. Lancaster Park.

#### **1. PRESENT CONCEPT PLAN FOR THE CARVER HEIGHTS COMMUNITY PARK**

Mr. Rollins was joined by representatives from Save the Village, Inc., including Pop Rothwell, Doris McCaskill, and Bruce Jackson.

The BOCC approved \$140,000 in FY2009 for the first phase, which included developing the concept plan for the 35-acre park. It is now proposed that the UCAC Civil War memorial be located at Lancaster Park.

The Concept Plan for the Carver Heights Community Park includes a USO Building memorial (along Rt. 235 and Lincoln Ave.), a new playground and picnic pavilion, nature trails, a multi-purpose athletic field, pedestrian walkways, basketball court, parking and restroom facilities. Mr. Rollins said pending BOCC approval, the playground can be installed and improvements made to existing parking lots and walkways this fall. Funding was appropriated and has been used for the concept plan, boundary survey and title search, and will be used for the playground and parking lot/walkway improvements.

**Commissioner Dement moved, seconded by Commissioner Raley, to endorse and approve the Carver Heights Community Park concept plan and to authorize staff to move forward with implementation of the plan with funding currently available. Motion carried 5-0.**

## **2. PRESENT CONCEPT PLAN FOR THE UNIFIED COMMITTEE ON AFRICAN-AMERICAN CONTRIBUTIONS CIVIL WAR MEMORIAL**

Mr. Rollins was joined by members of the UCAC including Nat Scroggins, Dr. Janice Walthour, and Idolia Shubrooks.

The proposed location for the UCAC Civil War Memorial is in the John G. Lancaster Park in close proximity to baseball fields, a picnic area, and near a "Flat Tops" building that will be converted to a restroom facility. The County was asked to assist with the project by providing the necessary work to prepare the site for the memorial and helping with landscaping. Mr. Rollins said site work is minimal and involves grading a 30 foot by 30 foot area for the memorial garden. The County's Dept. of Recreation and Parks will maintain the memorial garden once completed.

Mr. Scroggins displayed an exhibit of the memorial that will contain three individual monuments: two honoring Civil War Medal of Honor recipients William H. Barnes & James H. Harris, and the third monument containing all the individual names of those who served during the period as union soldiers and sailors from St. Mary's County.

**Commissioner Dement moved, seconded by Commissioner Mattingly, to endorse the Unified Committee on African-American Contributions Civil War Memorial concept plan and to approve locating the memorial at John G. Lancaster Park at Willows Road. Motion carried 5-0.**

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

**Commissioner Mattingly moved, seconded by Commissioner Raley, to enter into Executive Session for the purpose of discussing real property, specifically, the potential acquisition of property for public facility uses. Motion carried 5-0.**

#### Real Property Acquisition

Present:

- Commissioner Francis Jack Russell, President
- Commissioner Kenneth R. Dement
- Commissioner Lawrence D. Jarboe
- Commissioner Thomas A. Mattingly, Sr.
- Commissioner Daniel H. Raley
- John Savich, County Administrator
- Phil Rollins, Director, Recreation and Parks Dept.
- David Weiskopf, Deputy County Attorney
- Liz Passarelli, Real Property Manager
- Dr. Michael Martirano, Superintendent, SMCPS
- Brad Clements, Chief Operating Officer, SMCPS
- Donna Gebicke, Recorder

Authority: Article 24, Section 4-210(a)11  
Time Held: 10:55 am – 11:33 am  
Subject Discussed: Potential property acquisition for public facility uses.

### **MOTION IN OPEN SESSION**

**Commissioner Raley moved, seconded by Commissioner Jarboe, to direct staff to proceed as discussed during the Executive Session with regards to potential property acquisition. Motion carried 5-0.**

### **LAND USE AND GROWTH MANAGEMENT: PUBLIC HEARING TO CONSIDER PROPOSAL TO AMEND THE COMPREHENSIVE WATER AND SEWERAGE PLAN – RE: CASE CWSP-09-200-001, WILLOWS ROAD BUSINESS PARK**

Present: Dave Chapman, Capital Facilities Planner

Commissioner President Russell opened the public hearing at 11:38 AM. Mr. Chapman stated that the public hearing was advertised in the July 3 and 8, 2009, editions of the Enterprise newspaper and that notices were sent out via certified mail to contiguous property owners and posted on the property.

Mr. Chapman explained the subject of the public hearing was to consider a proposal to amend the Comprehensive Water and Sewerage Plan (CWSP) to amend Service Area Maps III-51 and IV-51 changing the service area categories from W-6D and S-6D to W-3D and S-3D (service three to five years) for the 26.98 acres described as Tax Map 51, Grid 11, Parcel 177, in the 8<sup>th</sup> Election District, known as the Willows Road Business Park, Case CWSP 09-200-001. The subject property is located in the OBP zone (Office Business Park), APZ-2 (Accident Potential Zone) overlay.

Following their public hearing and by unanimous vote, the Planning Commission adopted PC Resolution 09-05, conveying to the BOCC its recommendation that the CWSP be amended as requested.

Commissioner Raley questioned the 49 Equivalent Dwelling Units (EDUs) relevant to placing a personal storage facility on the property. Mr. Chapman clarified that the personal storage facility will include offices and a warehouse in the future. Commissioner Raley also questioned the buffer (setback) from the Fenwick residential property. Commissioner Mattingly expressed concern about the proposed fire hydrant locations and requested that the fire department be consulted.

Mr. Jim Gotsch, Engineer, Loiederman Soltesz Associates, Inc., joined Mr. Chapman at the presenter's table.

Commissioner President Russell opened the hearing for public comment at 11:51 AM.

**Public Testimony**

**Francis C. Fenwick, Jr.**

Mr. Fenwick questioned the buffer zone and expressed concern that stormwater will run off onto his father's property. Mr. Fenwick said he is aware of other storage locations that allow storage of small equipment for local businesses and questioned if potentially hazardous materials such as engine fluids will be allowed to be stored at the facility.

There were no names on the sign-up sheet.

Commissioner President Russell closed the hearing for public testimony at 11:55 AM, and subsequently closed the public hearing at 11:57 AM, setting the ten-day open record period for receiving written comments.

**COMMISSIONER'S TIME**

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

**OFF CAMPUS EVENT**

Beginning at 2:00 PM, the BOCC visited the new Evergreen Elementary School, located in California at 43765 Evergreen Way.

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

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