

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
CHESEAPEAKE BUILDING
Tuesday, August 18, 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
Donna Gebicke, Administrative Assistant (Recorder)

CALL TO ORDER

Commissioner President Russell called the meeting to order at 9:02 am.

APPROVAL OF CHECK REGISTER

Commissioner Raley moved, seconded by Commissioner Jarboe, to authorize the Commissioner President to sign the Check Register for checks dated August 18, 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, August 4, 2009, as presented. Motion carried 5-0.

COUNTY ADMINISTRATOR

1. Draft Agendas for August 25 and September 1, 2009. It was announced that the next public forum will be September 22, 2009, at 6:30 pm, in the Chesapeake Building.

2. County Administrator and Dept. of Public Works and Transportation
(*John Savich, County Administrator; George Erichsen, Director, DPW&T*)

Commissioner Mattingly moved, seconded by Commissioner Raley, to approve and authorize the Commissioner President to sign the Memorandum of Understanding between the Board of County Commissioners and the Commissioners of Leonardtown to retain the services of Stearns & Wheler for the purpose of conducting field studies and related analyses necessary for the preparation of a Treatment Plant Capacity Evaluation and Land Application Study. Motion carried 5-0.

3. Department of Public Works and Transportation (*George Erichsen, Director*)

Consideration was given to the following items:

- a. Public Works Agreement Addendum for Orchid Park of Wildewood Subdivision, Section 1, located in the **8th Election District**, with an Expiration Date of July 1, 2010, which includes Orchid Drive and Azalea Court;
 - b. the Public Works Agreement Amendment for Emerald Hills Estates Subdivision, Section 4, located in the **8th Election District**, with an Expiration Date of June 1, 2010, which includes Anita Court and Colleen Place;
- and;
- c. the Installation and Maintenance Agreement of Streetscape Improvements for Dahlia Park of Wildewood Subdivision, Phase I, located in the **8th Election District**, which grants the Association responsibility for the perpetual maintenance of the streetscape and landscaping improvements, specifically surrounding Tallwood Road.

Mr. Erichsen clarified that the Dahlia Park of Wildewood Subdivision, Phase I, (item c) Homeowners Association and developers wanted to add streetscaping and landscaping on the primary road in the subdivision, which is Tallwood Road. The Installation and Maintenance Agreement presented today was worked out with the developer and allows for plantings to be placed within the right-of-way as long as they don't create a safety hazard and are perpetually maintained by the homeowners association.

Commissioner Raley moved, seconded by Commissioner Dement, that the two Public Works Agreement Addenda for the two subdivisions located in the 8th Election District as cited in Mr. Erichsen's memo to us dated August 12, 2009, being "A." and "B.," be approved as submitted, and that item "C." be deferred until Mr. Erichsen gets back to us with information as requested. Motion carried 5-0.

Commissioner Mattingly noted that there have been complaints about burnings in Wildewood and other areas of the County and asked if any County departments are required to sign-off on burn permits. Mr. Erichsen responded that his department was not part of the approval process, but he believes that the Fire Marshall and Health Department play a role. He agreed to research the process further and bring the information back to the Board.

4. **Department of Public Safety** (*Dave Zylak, Director; Jaclyn Shaw, Emergency Planner*)

Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Memorandum of Understanding with the Leonardtown Volunteer Fire Department for the acquisition of a CBRNE (Chemical, Biological, Radiological, Nuclear, and Explosive) Emergency Response Vehicle and trailer and to sign the related budget amendment to realign funds. Motion carried 4-0 with one abstention (Commissioner Mattingly abstained).

5. **Department of Recreation and Parks** (*Phil Rollins, Director*)

Commissioner Dement moved, seconded by Commissioner Raley, to approve and authorize the Commissioner President to sign the Budget Amendment transferring \$12,000 from the Parks Maintenance Building Project (RP0801) to the 7th District Park Improvement Project (RP0603) to cover the costs to prepare as-built certifications for the stormwater management facilities constructed at the 7th District Park. Motion carried 5-0.

6. **Department of Human Services**

This item was deferred until August 25, 2009:

FY 2010 Five- County Crownsville Project Agreement #MH 448 OTH and related budget amendment to decrease the project budget.

7. **Office of the County Attorney** (*David Weiskopf, Deputy County Attorney*)

Commissioner Jarboe moved, seconded by Commissioner Raley, to approve the 2010 Legislative Proposal Schedule as presented by staff. Motion carried 5-0.

8. **Departments of Economic and Community Development and Land Use and Growth Management** (*Bob Schaller, Director, DECD; Phil Shire, Dep. Dir., LUGM*)

Commissioner Mattingly moved, seconded by Commissioner Dement, to approve the annual Transferable Development Rights (TDR) Program Fee-in-Lieu value for the Open Lands Trust Fund in the amount of \$20,000 for fiscal year 2010. Motion carried 4-0 with one abstention (Commissioner Raley abstained).

DEPT. OF ECONOMIC AND COMMUNITY DEVELOPMENT (DECD): COMMUNITY DEVELOPMENT CORPORATION'S (CDC) REQUEST TO ESTABLISH A WORKING GROUP TO REVIEW THE COUNTY'S ORDINANCES PERTAINING TO THE ELIMINATION OF SLUMS AND BLIGHT AND TO MAKE RECOMMENDATIONS

Present: Bob Schaller, Director, DECD
Robin Finnacom, Exec. Director, CDC

The Community Development Corporation is requesting that the Board direct the Department of Land Use and Growth Management staff to convene a community and staff-based group to review existing rules and best practices pertaining to blight, host a community forum to identify interests and concerns, and provide findings and recommendations to the Board. It is proposed that the community group include residential and commercial property owners, the CDC, the Chamber of Commerce, DECD staff and others.

To illustrate the CDC's concerns, Ms. Finnacom provided a visual presentation of various blighted and unsafe structures in St. Mary's County and described them as: threatening the safety of children and families; dramatically affecting surrounding property values; creating an atmosphere of abandonment and encouraging vandalism; diminishing neighborhood pride and the quality of life; and directly undermining efforts to revitalize older areas throughout the County.

Commissioner Jarboe noted the importance of blending historic preservation with cleaning up those properties that really need to be taken care of (e.g., tobacco barns vs. old gas stations). He also asked that staff start by working with the property owners and letting them know they have rights to rebuild once the property is cleaned up, and encouraging and making new businesses feel welcome and doing everything we can to fast-track their requests. Commissioner Jarboe asked if the Commissioners will have the opportunity to appoint members to this working group to ensure a broad perspective.

There was consensus among the Board to direct Land Use and Growth Management to look at ways to deal with blighted structures, especially those that create health and safety hazards, while taking property rights into account. A group will be formed to review the County's regulations and best practices pertaining to the elimination of slums and blight and to make recommendations to the Board. Mr. Savich indicated that the Director of Land Use and Growth Management will review the assignment, taking into account the suggestions made today, and will return to the Board with recommendations on the best way to obtain broad citizen input.

PUBLIC HEARING ON PROPOSED EIGHTH AMENDMENT TO THE SHERIFF'S OFFICE RETIREMENT PLAN

Present: Sue Sabo, Human Resources Director and Plan Administrator

The Public Hearing was opened by the Commissioner President at 10:20 a.m. Ms. Sabo reviewed the four changes that are included in the proposed Amendment recommended by the Board of Trustees for the Sheriff's Office Retirement Plan. Three of the changes are

required to continue as a pension plan that qualifies under the Internal Revenue Code as tax exempt. The fourth change establishes the term of service as two, consecutive three-year terms for Sheriff's Office representatives and the citizen representative. It was noted for the record that notice of the public hearing was advertised in the August 7 and August 14, 2009, editions of the *Enterprise* newspaper.

Commissioner Mattingly asked if staggered terms could be considered for each member of the Board of Trustees.

The Board concurred with Commissioner Mattingly's suggestion to establish staggered terms. Ms. Sabo agreed to incorporate staggered terms as part of the changes presented today and to return to the Board with a new amendment for their consideration.

No one was present to provide public testimony. The public hearing was closed at 10:34 a.m.

DEPT. OF ECONOMIC AND COMMUNITY DEVELOPMENT: DECISION ON PROPOSED ST. MARY'S COUNTY AGRICULTURAL LAND PRESERVATION DISTRICT FIVE-YEAR TAX CREDIT PROGRAM ORDINANCE

Present: Bob Schaller, Director, DECD

A public hearing was held on July 14, 2009, to consider and receive public testimony on the proposed St. Mary's County Agricultural Land Preservation District Five-Year Tax Credit Program Ordinance. No public comments were received during the hearing or the subsequent ten-day open record period.

The only change proposed from the previously approved Ordinance No. 2003-08 is the removal of a clause limiting credit to the first \$40,000 of assessed value of agricultural improvements.

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and sign the St. Mary's County Agricultural Land Preservation District Five-year Tax Credit Program Ordinance. Motion carried 5-0.

DEPT. OF LAND USE AND GROWTH MANAGEMENT

Present: Dave Chapman, Capital Facilities Planner

1. Decision on Proposal to Amend Comprehensive Water and Sewerage Plan to Amend Service Area Maps III-51 & IV-51 to Change service Area Categories from W-6D and S-6D to W-3D & S-3D for 26.98 Acres Described as Tax Map 51, Grid 11, Parcel 177, in 8th Election Dist., Known as Willows Road Business Park, Case CWSP 09-200001

A public hearing was held on July 21, 2009, to consider and hear public testimony on this request to amend water and sewer service area categories for Willows Road Business Park. Following the public hearing, the record was held open for ten days. No additional comments were received during the open record period.

Commissioner Raley moved, seconded by Commissioner Jarboe, to amend the St. Mary's County Comprehensive Water and Sewerage Plan to change the service area categories from W-6D and S-6D to W-3D and S-3D for 26.98 acres of land described as Tax Map 51, Grid 11, Parcel 177, in the 8th Election District, known as the Willows Road Business Park, referenced as Case #CWSP 09-200-001. Motion carried 5-0.

2.a. Introduction of a Comprehensive Zoning Ordinance Text Amendment to Section 51.3.13 to Correct an Oversight in Use Type 13, Group Home

Present: Yvonne Chaillet, Planner/Zoning Administrator; Phil Shire, Deputy Dir.

The purpose of this amendment to Section 51.3.13 is to correct the discrepancy between General Standard 1 and the description of a group home in Schedule 50.4 and to eliminate the requirement for compliance with floor area ratio.

Commissioner Raley moved, seconded by Commissioner Jarboe, to authorize staff to proceed to schedule a public hearing on the proposed zoning ordinance text amendment to Section 51.3.13 to correct an oversight in Use Type 13, Group Home, as described here today and to waive the requirement to go to the Planning Commission. Motion carried 5-0.

2.b. Introduction of a Comprehensive Zoning Ordinance Text Amendment Schedule 50.4 to Move Use Type 23, Day Care Family Home from Public and Semipublic Use Classifications" to "Accessory Use Classifications"

Present: Yvonne Chaillet, Planner/Zoning Administrator; Phil Shire, Dep. Director

The purpose of this amendment is to correct a misclassification and associated text. The amendment will reclassify Use Type 23, Day care, family home as an "Accessory Use" and clarify that zoning authorization must be obtained from Land Use and Growth Management before the applicant obtains certification from the state of Maryland. Ms. Chaillet reviewed in detail the purpose for the amendment, background, specific text changes, and the staff's recommendation.

Commissioner Raley moved, seconded by Commissioner Jarboe, to authorize staff to proceed to schedule a public hearing on the proposed zoning ordinance text amendment to move Use Type 23, Day Care, Family Home, from "Public and Semipublic Use" Classifications to "Accessory Use" Classifications and to bypass the Planning Commission. Motion carried 5-0.

- 2.c. Section 26.2.2.b, *Using Development Rights*, to Add a Grandfathering Provision for Projects that had Successfully Completed TEC Review and Obtained Appropriate Approvals Prior to Adoption of the TDR-Use Restrictions in the Mattapan Rural Legacy Area on July 18, 2006

Present: Phil Shire, Dep. Dir.; Rory Feight, Developer

The text amendment is proposed to supplement a text amendment to Section 26.2.2 of the Comprehensive Zoning Ordinance enacted by Ordinance Z2006-01 that prohibits the development of RPD- (Rural Preservation District) zoned land within a Rural Legacy Area “. . . to a density greater than one dwelling unit per five acres of gross area.” The proposed addendum to the 2006 amendment will provide after-the-fact grandfathering for any project that had successfully completed TEC review, received preliminary approval and was approved for submittal of a final plat for review and recordation prior to the July 18, 2006, adoption of Z2006-01. The only subdivision request eligible to benefit from this amendment is the Dixon Subdivision, which proposes two new lots in the RPD.

Staff provided written confirmation from the Maryland Department of Planning and Maryland Department of Natural Resources stating their support of the text amendment to provide grandfathering for this single project, with the assurance that the County will not be sanctioned, nor will RLA funding be jeopardized by this action.

Commissioner Mattingly moved, seconded by Commissioner Dement, to accept the amendments as proposed by staff to Section 26.2.2.b, *Using Development Rights*, to add a grandfathering provision for projects that had successfully completed TEC review and obtained appropriate approvals prior to adoption of the TDR-use restrictions in the Mattapan Rural legacy area on July 18, 2006, for a first reading, to waive the 30-day comment period and second reading required by Resolution 2005-03, and to direct that the Planning Commission proceed with a public hearing and prepare a recommendation for the Board relating to this amendment. Motion carried 5-0.

COMMISSIONER’S TIME

The Commissioners highlighted upcoming events and those attended over the past week as well as personal interest items.

Commissioner Mattingly summarized work sessions and meetings with the Secretaries or Assistant Secretaries of the Maryland Department’s of Planning, Natural Resources, and others, during the Maryland Association of Counties (MACo) Conference last week. Governor O’Malley announced that the state must cut some \$470 million in the current fiscal year. About \$250 million of that will come from state aid to local government.

RECESS

The Board recessed at 11:18 am.

PUBLIC FORUM

The public forum was opened by Commissioner President Russell at 6:30 p.m.

For those who have expressed concerns about activities and construction going on in the Wildewood subdivision, Commissioner Mattingly announced that the developers of Wildewood residential community will be conducting their semi-annual briefing to the Planning Commission on Monday, August 24, at 6:30 p.m. here in the Chesapeake Building. Residents of Wildewood are invited to attend and express their concerns regarding the Wildewood Planned Unit Development.

The following is a summary of the comments provided by citizens in attendance.

Rich Johnson 19026 Russell Rd., P.O. Box 425, Valley Lee

Thanks to the Commissioners for your letter to the MD Dept. of Natural Resources Secretary regarding your displeasure with his decision regarding Elms Beach. Regarding property taxes: Some folks are overly taxed due to incorrect data on their property. Depending on how your property is recorded at Assessments, if it's recorded as a rental you'll be taxed at the highest rate. Could be costing taxpayers thousands of dollars in overpaid taxes. What can be done to correct this? Can people be notified if their primary residence is being recorded as a rental property?

Everlyn Holland, 24060 Hollywood Rd., Hollywood

Want to speak to the issue of Human Services and the dissemination of information. Those who are in need of food, shelter and other necessities do not always have access to the internet. Is there some other low-tech way, such as a newspaper or hardcopy list of services that can be made available with contact information? Also concerned about road being constructed along 245 - - it's a terrible location for traffic.

Mike Sams, 40460 Partlett Morgan Rd., Mechanicsville

I'm a homebuilder based in Mechanicsville experiencing difficult times due to the recession and have been having yard sales in Hollywood at my mother and father-in-laws residence to help support my family. Recently, the County's Deputy Code Official ordered a "cease and desist." He said we were operating a flea market. It's just me and my wife selling and we're not operating a flea market. I'm just struggling trying to get by and meet my financial obligations. I've spoken with Delegate Wood and he tells me that there's no law pertaining to yard sales. The Deputy Code Official told me that we have too much stuff at our yard sales. How can he regulate that? I just want to know if I can have my yard sales. It's a \$500 citation – if there is no law, how can they do this?

George Thornton, 23496 Mervele Dean Rd., Hollywood

Mike Sams is my son-in-law. The yard sales were being held at my home so, I'm the one who got served with the citation and a restriction placed on my property, and I'm not happy about it. I support my daughter and son-in-law having yard sales to support their family. We have reviewed documents and have not found anything that comes close to what we are doing. We want a response in writing as to why we were served this citation. Also, there is a jet (Harrier) that comes out of St. Mary's County airport every Sunday morning around 11 am that turns its nozzles down as it goes over my house. I may be back to talk to you about putting some noise level detectors in my yard.

Pat Murphy, Director, So. Md. Youth Football League (SMYFL)

(Mr. Murphy provided background information on the creation of the SMYFL). SMYFL is run independently and is governed by an elected board. Through sponsorships and contributions, kids who could never afford to pay the registration fee are now playing football for the first time. Bill Hoffer of Universal Sports provided structure and equipment. Our goal this year was 400 kids. With the other two leagues feuding, we now have 650 kids which is creating problem. We have been working with Recreation and Parks (R&P) continuously throughout the formation of our league. We understand the County wants to do "club football" now. If the County is going to do club football next year, then we don't need to purchase equipment for 650 kids this year. A lot of work and expense has gone into organizing and funding our league. We are asking you to give us a chance to see what we can do before deciding on club football. We need to know what the County plans to do next year because it will impact us this year. There is also a problem with equipment stored in containers adjacent to Lettie Dent Elementary School. There are several locks on the containers preventing access because of the dispute between the two other leagues.

Mr. Rollins responded that (as communicated through written updates to the Board) R&P plans to propose to the Board that R&P administer youth football next year using the "club model" that Charles and Calvert Counties use. R&P would serve as league director (manager) to the nonprofit youth organizations that would register the youth, create teams, fundraise, purchase equipment and enter teams into age and weight leagues. R&P administration would provide sustainability and accountability. Regarding the equipment/storage dispute between the other two leagues, both organizations say they own the equipment and attorneys are involved. Neither league will be permitted to take the equipment out of storage until ownership is resolved.

The Commissioners directed Mr. Rollins to consult with the County Attorney to determine a way to resolve the equipment storage issue so that the space can be used by others.

Bill Hoffer, Mechanicsville, Universal Sports and Academics

Want to provide clarity about who we are and how we operate in relation to SMYFL. We are a nonprofit, governed by a board of directors. The main part of our mission is to provide a structured social bridge between recreation and competitive sports with academia for the common good.

Michael Hewitt, 26074 Sotterley Heights Rd., Hollywood

There was an article in the paper that talked to the two dilapidated gas stations on Great Mills Road at the intersection of Chancellor's Run and Great Mills Rd and that a grant may be available to buy the two places and get rid of them. Is there a reason why we didn't pursue a grant? If it had gotten to discussion stage, the public would know why we didn't pursue this grant. For the CDC to spend money on appraisals and environmental studies and then to never get this to the discussion stage seems like a disservice to the community. If the Commissioners can't address this issue, then who can?

As there were no other persons who wished to provide comments, Commissioner President Russell closed the public meeting at 7:25 pm.

ADJOURNMENT

Commissioner Dement moved, seconded by Commissioner Raley, to adjourn the Board of County Commissioners meeting. Motion carried 5-0.

The meeting adjourned at 7:25 pm.

Minutes Approved by the Board of County Commissioners on _____

Donna Gebicke, Administrative Assistant (Recorder)