

**ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS' MEETING  
GOVERNMENTAL CENTER  
Tuesday, November 15, 2005**

**Present:** Commissioner President Thomas F. McKay  
Commissioner Kenneth R. Dement  
Commissioner Lawrence D. Jarboe  
Commissioner Thomas A. Mattingly, Sr.  
Commissioner Daniel H. Raley  
George G. Forrest, County Administrator  
Susan J. Wolfe, Acting Senior Administrative Coordinator (Recorder)

*Susan Wolfe recorded the following meeting minutes:*

**CALL TO ORDER**

The meeting was called to order at 9:09 a.m.

**APPROVAL OF CHECK REGISTER**

**Commissioner Mattingly moved, seconded by Commissioner Jarboe, to authorize the Commissioner President to sign the Check Register. Motion carried, 5-0.**

**APPROVAL OF MINUTES**

**Commissioner Jarboe moved, seconded by Commissioner Raley, to approve the minutes of the Commissioners' Meeting of November 8, 2005, as corrected. Motion carried, 5-0.**

**COUNTY ADMINISTRATOR**

1. Draft Agenda for November 22, 2005. (There will be no BOCC meeting on November 29.)
2. **Department of Economic & Community Development** (*John Savich, Director*)

**Commissioner Raley moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign a Budget Amendment in the amount of \$60,000 to provide for payment to Essex South Management for Lexington Manor property management costs for final months of occupancy. Motion carried, 5-0.**

*Commissioner President McKay asked how many families are remaining to be relocated. Mr. Savich reported that only two families remain and will be relocated no later than December 15. A contractor will be selected during the next month for demolition in December and to take responsibility for the property. A good competitive set of bids is expected.*

*Commissioner Mattingly inquired if most of the traffic has been blocked off. Mr. Savich reported that the South parcel has been gated and the North entrance will be gated shortly.*

*Commissioner Raley remarked that there has been trash dumping in the South parcel. Mr. Savich said clearing has begun and will continue to allow contractors to begin asbestos removal.*

*Commissioner President McKay asked Ms. Kramer to provide to the Commissioners a memorandum outlining the use of emergency appropriations expenditures and budget activity for the current year.*

*Commissioner Raley asked if there will be any additional costs to the County. Mr. Savich indicated that the County has met its obligations except for the demolition/cleanup. There is a Federal grant expected as well.*

**3. Department of Public Works & Transportation** (*George Erichsen, Director; Richard Tarr, Solid Waste Manager*)

**Commissioner Jarboe moved, seconded by Commissioner Mattingly to approve and authorize the renewal of a Memorandum of Understanding between Charles County and St. Mary's County for the disposal of Solid Waste at the Charles County Landfill per the approved St. Mary's County Comprehensive Solid Waste Management and Recycling Plan. Motion carried, 5-0.**

Mr. Tarr reported that, if approved, the Memorandum of Understanding will serve the emergency solid waste disposal needs of the County for at least one (1) period of 365 consecutive calendar days until December 31, 2015.

*Commissioner Raley complimented Messrs. Erichsen and Tarr for the successful hazardous waste recycling day at the St. Andrews landfill on November 12. Mr. Tarr noted that over 800 vehicles brought waste that day and December 10 is the next scheduled recycling day.*

**PROPOSED TEXT AMENDMENTS (FIRST READING)** (*Denis Canavan, Director, Land Use & Growth Management*)

- (a) Amend Comprehensive Water & Sewer Plan to allow sewer service for school sites only that abut growth areas.**

**Commissioner Mattingly moved, seconded by Commissioner Dement, to dispense with the rules requiring a Second Reading of the proposed text amendment and to direct staff to submit the proposed text amendment to permit extension of water and sewer service to school sites that adjoin development districts directly to the Planning Commission for their review and recommendation. Motion carried, 5-0.**

*Commissioner Raley requested that the word "facility" be dropped from the proposed language in Section 3.2.1.A.i.a. of the Comprehensive Water & Sewer Plan, p. 70.*

*Commissioners Raley and Jarboe expressed reservations about use of the Rural Preservation Districts (RPD) for schools, but agreed that staff work allayed most of their concerns and provided a good compromise, thereby allowing them to support and expedite the proposed text amendment. Mr. Raley noted that this proposal would allow extension of sewers into the RPD.*

*Mr. Canavan will submit the proposed text amendments to the Planning Commission as soon as possible for their recommendation. Commissioner President McKay clarified that the dispensing with the rules requiring a Second Reading does not mean endorsement by the Board of County Commissioners.*

**(b) Amend Comprehensive Zoning Plan to prohibit use of TDRs to increase residential density in Rural Legacy Areas**

**Commissioner Raley moved, seconded by Commissioner Dement, to dispense with the rules requiring a Second Reading of the proposed text amendment and to direct staff to respond to Commissioner requests for information and to submit the proposed text amendment to prohibit the use of Transfer Development Rights for an increase in residential density in a Rural Legacy Area directly to the Planning Commission for their review and recommendation. Motion carried, 5-0.**

*Commissioner President McKay said he feels this is the right step and believes that RPD property owners should have equal opportunities within and outside a Rural Legacy Area. Mr. Canavan responded that if your land is within the RPD, you have the opportunity to have an easement purchased by the state through the County. With this text amendment, a more dense development opportunity would occur for a property owner outside the RPD. Commissioner President McKay asked staff to continue a financial study that may discover additional solutions.*

*Commissioner Mattingly said that residents in the proposed Mattapan Rural Legacy Area want to preserve the rural character and preserve the area from development.*

*Commissioner Jarboe remarked about the success of Dr. Norton Dodge who put 900 acres into Rural Legacy and then leveraged another large land purchase and transferred it into Rural Legacy. That area of the County will remain constant without development.*

*Commissioner Raley asked if smaller landowners who have 10-20 acres would have the same impetus to participate. Mr. Canavan indicated he thought they would. He asked staff to look at the supply and demand component of the TDR program County-wide. Mr. Canavan will look at the estimated number of TDRs existing on the 22,000 acres under today's formula and then also at the conversion factor.*

*Commissioner Mattingly remarked about the use of a similar amendment to protect density development and prevent encroachment around Webster Field.*

**TRAFFIC MITIGATION ALONG MD. 235 CORRIDOR** (*George Erichsen, Director, and John Groeger, Department of Public Works & Transportation; and Denis Canavan, Director, Land Use & Growth Management*)

Messrs. Canavan, Shire and Erichsen provided information regarding traffic mitigation in the County especially the MD 235 corridor. They reviewed the old and current Zoning Ordinances and noted that the current Ordinance requires more in-depth analysis because of the requirement to analyze vehicle queuing, un-signalized intersections, and 2 lane segments. Special Road Impact Fees could be assessed with the development district, could include commercial development, and could be significantly higher than the current road impact fee of \$400 per residential unit. To avoid greater development pressure on the RPD, consideration should also be given to County-wide fee equity. At present, no road impact fee is assessed to commercial development.

Project could be funded on the condition that developers that benefit from them will participate in the cost and/or land dedication via Development Agreements thus deflecting from the general taxpayers a cost which benefits a limited population. Traffic impact studies help determine the local traffic impact a development has on the roadway network. Where intersection improvements are feasible, they are required of the developer to mitigate their traffic impact. Where actual improvements are not feasible, other combinations of mitigation measures are considered.

The Departments of Public Works & Transportation and Land Use & Growth Management, with the State Highway Administration, are beginning to work with developers to determine an appropriate and fair pro-rate share payment for intersection improvements where it is not feasible to construct additional capacity. This recommendation would be brought to the Board of County Commissioners for review. They also noted that the Board recently introduced legislation to include St. Mary's County as a County that can form special taxing districts for roadway capacity improvements.

Corridor/right-of-way preservation can be accomplished by either reservation or dedication as a part of the subdivision and site plan process, which is already being accomplished with cooperative developers. In cases where the contemplated improvement requires denial of a development application, consideration should be given to acquiring the subject parcel or portion thereof to preclude increased future project costs. Design and bonding of construction for mitigation should be affected prior to site plan/subdivision plan approval. They recommended that the County continue the approved Tulagi Place Revitalization CIP project as well as proceeding with developing various funding methodologies to assign monetary contributions for necessary road improvements within the Lexington Park Development District.

According to the State Highway Administration, there are currently two (2) failing intersections in St. Mary's County (Md. Route 4 at 235 and Pegg Road at 235) and there are six more intersections on Md. 235 that could be considering failing by 2025. If the County would provide funding toward improvements of these intersections, the State might expedite road improvements projects along Md. 235.

Commissioner McKay noted that in several years there may not be the opportunity for mitigation along Md. 235. The County has to ask if our current ordinance that allows growth to continue without maintaining the appropriate level of service (LOS) is wise. Also, future developers could provide mitigation. He urged focus on the transportation section of the recently approved Lexington Park

Development Plan, working with developers. He asked staff to come back to the Board with recommendations on how to proceed with and implement key provisions of the transportation section of the Development Plan.

Commissioner Raley asked if an improvement is being proposed and would impact an intersection. He asked whether the commissioners have to make sure that the intersection doesn't fail. Mr. Canavan said that in order to bring it up to a passing level of service, we have to determine, what is the necessary construction program to do it. Commissioner Raley asked who determines the feasibility, i.e., if the cost is too high, what happens if a developer does not contribute. Mr. Canavan said the State will tell County what changes need to be made, including costs, then through special taxing districts, a developer could pay a proportionate amount to set aside for road improvement. These actions would assure that the State would move the project further up their list.

Commissioner President McKay said that the purpose of the discussions at this meeting was to begin to look at all available revenue sources to fund improvements to County roads and how developers fit into the Capital Improvement Plan.

Commissioner Mattingly asked why the County hasn't paid more attention to cross-County connector roads which would reduce the traffic impact on Md. 235.

**STATUS OF PRIVATE DEVELOPER CONTRIBUTIONS AND PROPOSALS FOR THE CALIFORNIA/LEXINGTON PARK SECTION OF THE THREE NOTCH TRAIL** (Phil Rollins, Director, Recreation, Parks & Community Services; accompanied by Denis Canavan, Director, Land Use & Growth Management)

The Department of Recreation, Parks and Community Services has been working with developers in the California area regarding a private/public partnership to construct a portion of the Three Notch Trail. Currently, six different developers are working with the County along two miles of the former railroad right of way from Wildewood to WalMart. Those projects are the (1) Wildewood Boulevard to Bay Center Project; (2) Proposed Bay Center Shopping Center to St. Andrews Church Road; (3) First Colony Shopping Center; (4) South Plaza Shopping Center; (5) Laurel Glen/K-Mart Expansion; and (6) WalMart Expansion. Mr. Rollins further reviewed two future projects and the balance of trail development from WalMart to Chancellor's Run Road. Currently, the plan is to tie the trail crossings at these locations into the existing signalized intersections. However, other crossing options may be considered by State and County highway officials.

Mr. Rollins discussed the use of impact fees to assist in funding recreation activities and noted that his Department will continue to look into this issue.

Commissioner Jarboe requested that Mr. Canavan provide the Commissioners with a copy of the 1999 County Right-of-Way study done by the State.

## **COMMISSIONERS' TIME**

### Commissioner Dement

Attended the annual Leonardtown Veterans' Day parade, which was noted as the largest in the State this year.

Attended the preview of the Anheuser-Busch Clydesdale horses at the fairgrounds.

Attended the 20<sup>th</sup> annual Helen Veterans' Day events.

Presented an 80<sup>th</sup> birthday proclamation to Ginny Balter, Clements, the mother of Bobby Balter.

Sent birthday greetings to his wife, Shirley.

### Commissioner Mattingly

Attended the annual Leonardtown Veterans' Day parade.

Attended the 20<sup>th</sup> annual Helen Veterans' Day events.

Attended the Christmas in April fundraiser banquet.

Apologized for not attending the program at the Charlotte Hall Veterans Home.

Attended the reception for St. Mary's County Hospice volunteers. He noted that Hospice, in coordination with St. Mary's Hospital, is preparing for a capital campaign to obtain funding for a County hospice residence.

### Commissioner Jarboe

Attended the Charlotte Hall Veterans Home Veterans' Day program. Governor Ehrlich was the featured speaker. Commissioner Jarboe spoke with Fred Shroyer, director of the Home, concerning spreading out the future schedule for Veterans' Day activities to allow County residents and officials to attend part of the Home's and part of Leonardtown's celebrations. This proposed schedule coordination would also allow for the incorporation of Home residents in the Leonardtown Veterans' Day parade.

Attended and served as a judge at the annual Chili Cookout sponsored by the ABATE program.

Expressed appreciation to students and school nurse, Mary Kay Lasher, Leonardtown Middle School for their letter to the Commissioners confirming their pledge to show good character by being drug-free.

Requested Phil Rollins, Director, Parks, Recreation & Community Services, provide the Commissioners with information received a few years ago on sports ethics.

### Commissioner Raley

Attended the annual Leonardtown Veterans Day parade. Expressed appreciation to the Mayor and his staff of Leonardtown, as well as staff of the Public Information Office.

Expressed appreciation to George Guy, Guy Distributing, for sponsorship of the Anheuser-Busch Clydesdales for the Veterans Day parade and subsequent events.

Expressed appreciation to Denis Canavan, Director, Land Use & Growth Management, for attending a Wildewood citizens meeting with him to hear concerns about storm water management and lighting in the new section.

Attended a meeting with Mr. Stine to discuss the future initiatives of the Habitat for Humanity in the County. The initiatives will be discussed at the November 22 Commissioners meeting.

#### Commissioner President McKay

Attended the annual Leonardtown Veterans Day parade.

Expressed appreciation to George Erichsen, Director, and George Jarboe, Transportation Manager, Public Works & Transportation, for organizing STS bus transportation to the Veterans Day parade from the fairgrounds. Eleven STS buses were dedicated to this important and well-attended event.

Noted public interest in the second Anheuser-Busch Clydesdale event, i.e., along Three Notch Road/Sandy Bottom in the Hollywood area.

Expressed appreciation to the St. Mary's County Sheriff's Department for their traffic directing during the Three Notch Road event.

Attended the state Critical Area Commission annual training at the Wye Institute. Noted that

Sue Veith, Senior Environmental Planner, was one of the trainers and focused her session on enforcement of County regulations. Commissioner McKay asked Ms. Veith to provide a similar presentation at a future Commissioners meeting.

Requested George Forrest, County Administrator, to send letters to interested parties in the recent sports incident inviting them to meet after the season ends to discuss standards and other issues related to County athletics. Phil Rollins, Director, Recreation, Parks & Community Services, will submit information on previous County initiatives to the Commissioners.

There is a Public Forum this evening at 6:30 p.m. It will be televised on Channel 95 and call-in's will be accepted.

Welcomed Northern County citizens using Comcast to access channel 95 on the county television station.

**RAYMOND J. FAULSTICH, JR. INAUGURAL SCHOLARSHIP AWARD** (*Salvatore Meringolo, Vice President for Development, and Paula Mitchell, Director, Major Gifts, St. Mary's College; Victoria Gallagher, scholarship award recipient, and her parents, Mr. & Mrs. Gallagher*)

Mr. Meringolo provided a briefing on the history of the Raymond J. Faulstich, Jr. Scholarship Award, given in memory of Army Pfc. Faulstich who lost his life in service to his county in Najaf, Iraq on August 5, 2004. The scholarship is given to a St. Mary's College student who is from St. Mary's County. This year, there are 131 County residents attending the College, and every one of the 131 is eligible for this year's scholarship.

Ms. Gallagher accepted the award and was presented with a commendation from the County. Ms. Gallagher is a freshman who is anticipating working toward a Major in English.

**UPDATE ON THE STATUS OF POTABLE WATER IN ST. MARY'S COUNTY AND RECOMMENDATIONS FROM THE WATER POLICY TASK FORCE** (*John B. Wheeler, Chair, Water Policy Task Force and Task Force member Judith Jenkins; Kurt Engel, Commission on the Environment; and Steve King, Director, MetCom, and Task Force member*)

Mr. Wheeler presented the "2005 Report on Our County's Future Water Supplies." He noted that the mission of the Water Policy Task Force (WPTF) is to inform the Commissioners and County residents on the status of the County's Water Supplies and make recommendations as necessary. He briefly reviewed the conclusions of the Task Force's 2002 report, the Maryland State Water Advisory Committee 2004 report, and the Task Force's Analysis of the 2005 Maryland Geological Survey Aquifer Report. He also presented a draft letter prepared by the Task Force to Senator Roy P. Dyson, the Southern Maryland representative to the newly reconstituted State Water Resources Management Advisory Committee.

In its analysis of the recent State report stating that the aquifers in St. Mary's County are adequate and use of the Patapsco aquifer is not needed before 2030, the Task Force noted their uncertainties with the report findings especially regarding its population estimates, lack of data on private well consumption, and major users consumption.

The Task Force presented the following conclusions and action plan (in priority order):

1. increase use of the Patapsco aquifer now
2. state conservation measures now
3. study aquifer recharge areas
4. determine better "management level" definition
5. review other drinking water sources
6. obtain private well usage data
7. fund observation well program

*The Commissioner will forward the report to staff for review and recommendation.*

## **VOTE TO MOVE INTO EXECUTIVE SESSION**

Commissioner Raley moved, seconded by Commissioner Dement, to move into Executive Session as provided for in Article 24, Section 4-210(a)8 Litigation and Article 24, Section 4-210(a)1 Personnel. Motion carried, 5-0.

## **EXECUTIVE SESSION**

### **Litigation**

Present: Commissioner Thomas F. McKay, President  
Commissioner Kenneth Dement  
Commissioner Thomas A. Mattingly, Sr.  
Commissioner Lawrence D. Jarboe  
Commissioner Daniel H. Raley  
George Forrest, County Administrator  
John Norris, III, County Attorney  
Denis D. Canavan, Director, Land Use & Growth Management  
Elaine Kramer, Chief Financial Officer

Authority: Article 24, Section 4-210(a)8  
Time Held: 3:10 p.m. jV 3:50 p.m.

Action Taken: The Commissioners discussed litigation issues.

### **Personnel**

Present: Commissioner Thomas F. McKay, President  
Commissioner Kenneth Dement  
Commissioner Thomas A. Mattingly, Sr.  
Commissioner Lawrence D. Jarboe  
Commissioner Daniel H. Raley  
George Forrest, County Administrator  
Susan Sabo, Director, Human Resources  
Susan J. Wolfe, Acting Administrative Assistant (Recorder)

Authority: Article 24, Section 4-210(a)1  
Time Held: 3:50 p.m. jV 4:55 p.m.

Action Taken: The Commissioners discussed personnel matters.

## **COMMISSIONERS' PUBLIC FORUM**

The Public Forum began at 6:30 p.m. Commissioner President McKay noted that the purpose of the Forum is to invite the public to speak to the Commissioners on any issue they feel is of interest to the Commissioners or may require their future action.

**Commissioner Raley moved, seconded by Commissioner Dement, that the County Attorney be authorized to settle the civil litigation regarding *Eldorado* as discussed in Executive Session. Motion carried, 5-0.**

**Commissioner Jarboe moved, seconded by Commissioner Mattingly, to direct staff to proceed on the personnel issue as discussed in Executive Session.**

There being no speakers, the Forum was adjourned at 6:45 p.m.

**ADJOURNMENT**

The meeting adjourned at 2:55 p.m.

Minutes approved by the Board of County Commissioners on

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\_\_\_\_\_  
Susan Wolfe, Acting Senior Administrative Coordinator