

**ST. MARY'S COUNTY**

**BOARD OF COUNTY COMMISSIONERS' MEETING  
GOVERNMENTAL CENTER**

**Tuesday, November 30, 2004**

**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  
Donna Gebicke, Administrative Assistant (Recorder)  
Kate Mauck, Senior Administrative Coordinator (Recorder)

**CALL TO ORDER**

The meeting was called to order at 9:13 a.m.

**APPROVAL OF MINUTES**

**Commissioner Dement moved, seconded by Commissioner Raley, to approve the minutes of the Commissioners' meeting of Tuesday, November 16, 2004. Motion carried.**

**COMMENDATION AND PROCLAMATION**

The Board of County Commissioners issued the following Commendation and Proclamation:

- Ms. Kelly Hall, Washington Post Annual Distinguished Education Leadership Award of Principal of Excellence
- Lower Potomac River Marathon

**COUNTY ADMINISTRATOR**

1. Draft Agendas for December 7 and December 14, 2004

*The Compensation Review Commission will provide a public presentation to the Commissioners along with their written report.*

2. **Department of Public Safety**

Present: Patrick Walsh, Director  
Stanley Williams, Jr. EMS Coordinator

**Commissioner Dement moved, seconded by Commissioner Mattingly, to approve the FY04 Rural Automatic External Defibrillator Grant Award and authorize the Commissioner President to sign the Budget Amendment reducing the FY05 approved budget by \$1,657 to match up with the actual grant award of \$12,643. Motion carried.**

**3. Department of Recreation, Parks, and Community Services**

Present: Phil Rollins, Director  
Bill Ball, Parks Division Manager  
Joyce Malone, Real Property Manager

**Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Memorandum of Understanding with the Golden Beach/Patuxent Knolls Civic Association. Motion carried.**

*Commissioner Jarboe directed the Department of Recreation, Parks, and Community Services to work the fire department in order to place lighting at the Golden Beach ball field. As part of the process, they should check with neighbors regarding the lighting to determine if this will cause any problems. An addendum or other appropriate paperwork should be brought back to the Commissioners for approval.*

*Commissioner President McKay asked staff to explore once again the lack of access situation at the park on Laurel Ridge Road.*

**4. Real Property Manager and Department of Public Works & Transportation**

Present: Joyce Malone, Real Property Manager  
George Erichsen, Director, Department of Public Works & Transportation

**Commissioner Raley moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign Supplemental Agreement Number Three to the Lease between the Board of County Commissioners, Allied Hangars, Inc., AirTec, Inc., and the State of Maryland for the use of the hangar by the Maryland State Police. Motion carried.**

**5. Department of Economic and Community Development – Housing and Tourism**

Present: John Savich, Director  
Dennis Nicholson, Executive Director, Housing Authority  
Cindy Phillips, Program Manager, Housing Authority

**a. Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign three originals of the First Amendment to the Grant Agreement for FY02 Rental Allowance Program (RAP) to Work Grant Agreement which allows remaining funds totaling**

**\$28,425 to be used to assist eligible recipients participating in either the RAP or RAP to Work programs and also the three originals of the First Amendment to the Grant Agreement for FY03 Rental Allowance Program (RAP) to Work Grant Agreement which allows remaining funds totaling \$35,095 to be used to assist eligible recipients participating in either the RAP or RAP to Work programs. Motion carried.**

Also Present: Robert Gant, Housing Commissioner  
John Norris, III, County Attorney

- b. **Commissioner Mattingly moved, seconded by Commissioner Jarboe, to approve and sign Resolution supporting the development of commercial space at the Gateways. Motion carried.**

Also Present: Carolyn Laray, Tourism Manager

- c. **Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign FY2005 County Cooperative Tier II Marketing Grant Agreement, Project #MD0517 and related budget amendment. Motion carried.**

## 6. Department of Public Works and Transportation

Present: George Erichsen, Director

- a. Resolution accepting Woodmark Court located in the Woodmark Subdivision, Section 4, 4th Election District, into the County's Highway Maintenance System, and resolutions establishing a 25-mph speed limit and stop sign for said road.

**Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and sign Resolutions accepting Woodmark Court into the County's Highway Maintenance System and also establishing a 25-mph speed limit and stop sign for said road. Motion carried.**

- b. Public Works Agreement for Forrest Farm Subdivision, Section 3, Phase 5. *Located in the 3rd Election District with an expiration date of December 1, 2005. A letter of credit has been provided by The First National Bank of St. Mary's in the amount of \$216,800. The roads included in this agreement are: South Pembroke Drive (1,577') and Waverly Court (1,089').*

**Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign Public Works Agreement for Forrest Farm Subdivision, Section 3, Phase 5. Motion carried.**

Also Present: Joyce Malone, Real Property Manager  
Scott Alexander, Department of Public Works & Transportation

- c. **Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Dredge Material Placement Site Construction Easement Agreement with Reason Jacob Orebaugh for construction of a Dredged Material Site for the purpose of depositing dredge spoils from dredging operations for the St. Jerome Creek Project. Motion carried.**

Prior to voting on this item, discussion took place on the following:

- This is an eight-year easement on 11.7 acres of property at a cost of \$125,000 which has been approved in the CIP;
  - There is an assumption, but no absolute guarantee, that DNR will reimburse the County for the leasing of the site regardless of what happens with this project;
  - Easement agreement must be signed and submitted no later than December 1, 2004;
  - Commissioners pointed out that in the year 2000, the U. S. Army Corps of Engineers sent the County a letter asking for a site to be located. The letter indicated that they had money at that time to complete the design phase of this project. Later on, the funding disappeared. Last spring, discussions took place about the design going forward and at that time, Commissioners authorized \$100,000 in the CIP to assist with design funding. The County was told they could accept the funds and that the Federal Government was going to fund the design as indicated earlier. Within the last couple of days, the County has been told that the funding for the design is only partially in place after all.
  - An eight-year clock would begin ticking with today's approval;
  - It is possible that the property will be devalued by the end of the easement agreement; however, DPW&T is working closely with the property owner on this issue;
  - The acquisition of this property will have met the requirement placed by the Federal Government in order to move forward with this project
- d. **Commissioner Raley moved, seconded by Commissioner Dement, to approve and sign letter to the U.S. Army Corps of Engineers and approve and authorize the Commissioner President to sign Authorization for Entry for Construction for the St. Jerome Creek Dredging Project. Motion carried.**

*Commissioners directed Mr. Erichsen to submit a follow-up letter next year to the U.S. Army Corps of Engineers as a reminder to them regarding the eight-year easement issue on this project. Mr. Erichsen stated that he would provide a letter for the Commissioners' signature in November 2005.*

**TRI-COUNTY COUNCIL FOR SOUTHERN MARYLAND: BROADBAND FEASIBILITY STUDY**

Present: David Jenkins, Executive Director, Tri-County Council for Southern Maryland  
Elaine Kramer, Chief Financial Officer

Mr. Jenkins provided an a Broadband Feasibility Study Update. The purpose of the Feasibility Study was to formalize Task Force effort to evaluate broadband options and impact/benefits to each of the County's current Broadband structure. Access to efficient and affordable broadband alternatives is an essential element to sustain and expand economic development in Southern Maryland. The following information was presented:

- Funding activities;
- Presentations and outreach;
- Scope of work; and
- Consultant fee is \$69,700; DBED/TEDCO support is \$34,850. Calvert, Charles, and St. Mary's Counties have been asked to provide County Match of \$11,600 per County. Thus far, Calvert and Charles Counties have voted to provide the matching funds.

**Commissioner Jarboe moved, seconded by Commissioner Mattingly, to support the Regional Feasibility Study for Broadband Access, including a local of match of \$12,000, to approve and sign the Resolution after staff has determined legal sufficiency, and also to sign the Budget Amendment. Motion carried.**

#### **SUPPLEMENTAL APPROPRIATION PUBLIC HEARING FOR CIRCUIT COURT GRANT AWARD**

Present: Elaine Kramer, Chief Financial Officer  
Judge Kaminetz, Circuit Court

A supplemental appropriation public hearing was conducted for a Circuit Court Grant Award of \$64,232 and related contributions of \$2,000 for a Juvenile Drug Court Discretionary Grant. The public hearing was properly advertised on November 17 and November 24, 2004. The Commissioner President opened the public hearing for citizen comments, and no one was present to speak. The public hearing was closed, and the record will remain open for ten days for written public comment. It will then be placed on an upcoming agenda of the Board of County Commissioners for discussion/decision.

#### **SUPPLEMENTAL APPPRIATION PUBLIC HEARING FOR DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION – STS GRANT AWARD**

Present: Elaine Kramer, Chief Financial Officer  
George Jarboe, Transportation Director

A supplemental appropriation public hearing was conducted for a Department of Public Works and Transportation STS Grant Award of \$120,000 and Related Passenger Fares of \$10,000 for a Rural Public Transportation Grant. The public hearing was properly advertised on November 17 and November 24, 2004. The Commissioner President opened the public hearing for citizen comments, with the following individuals speaking:

Michael Freeman – Spriggs Court, Hollywood – Representative of St. Mary’s College – Appeared on behalf of J. Margaret O’Brien, President of St. Mary’s College of Maryland – The College is one hundred percent supportive of the southern route being established in St. Mary’s County, in particular, to the College. Employees, students, and citizens would have an alternate source of public transportation, and would be able to utilize it for classes, work, and campus events.

Bill Reason – Silver Slate Drive, Lexington Park – Chair, Board of Directors, Greenbriar Homeowners Association – Spoke on behalf of Association regarding the need for an STS bus stop at the corner of Green Leaf and Hermanville Road. Outlined high speeds of vehicles, lack of sidewalks, numerous teenagers and safety hazards along the roadway.

Commissioner President McKay closed the public hearing, stating that the record will remain open for ten days for written public comment. It will then be placed on an upcoming agenda of the Board of County Commissioners for discussion/decision.

**SUPPLEMENTAL APPROPRIATION PUBLIC HEARING DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES EMERGENCY NUMBER SYSTEMS BOARD GRANT AWARD**

A supplemental appropriation public hearing was conducted for a Department of Public Safety and Correctional Services Emergency Number Systems Board Grant Award of \$571,924. The public hearing was properly advertised on November 17 and November 24, 2004.

*Commissioner President McKay asked Mr. Walsh to work with staff to make a presentation to the Commissioners as to the current level of service in the 911 Dispatch Center and what statistics and matrixes are used to identify the need to grow the service like this, as well as future costs associated would be as we move forward. This information will need to be presented prior to a final decision on the matter.*

The Commissioner President opened the public hearing for citizen comments, and no one was present to speak. The public hearing was closed, and the record will remain open for ten days for written public comment. It will then be placed on an upcoming agenda of the Board of County Commissioners for discussion/decision.

**DEPARTMENT OF LAND USE AND GROWTH MANAGEMENT: BRIEFING ON STATUS OF ZONING TEXT AMENDMENTS AFFECTING OFFICE BUSINESS PARKS**

Present: Denis Canavan, Director, Land Use and Growth Management  
Jeff Jackman, Senior Planner  
John Norris, III, County Attorney

The Department of Land Use and Growth Management provided a briefing regarding Zoning Text Amendments affecting Office Business Parks (OBP). This briefing was a continuance of one given in September proposing more distinct provisions on how

residential uses would be allowed in the OBP Zone. Mr. Jackman outlined discussions that occurred and direction given in September, especially as it related to the “Wedge”. The following additional draft amendments were presented for discussion:

- Rather than requiring TDRs for all dwellings in an OBP, set a threshold inside the Wedge, such as 10 units per acre, below which TDRs would not be required.
- Let the residential component of an OBP development in the Wedge be permitted as of right rather than by PUD.
- Accommodate transition between an RL zone and the OBP by allowing detached single family dwellings in the OBP.

Commissioners provided the following thoughts and/or direction:

- *Look at ten as the base zoning and ten with TDRs – also look at five and go through the public process to allow consumers to decide;*
- *Commissioner Jarboe questioned the inequity that is created due to five to one in the DMX and the OBP, which is more of a commercial district, has a denser zoning than the DMX; otherwise, incentives are created to move over from the DMX to the OBP;*
- *Commissioner Raley stated that he would be in support of going to 60/40 or some other percentage instead of the current 51/49 and then eliminate the PUD requirement altogether as it is a very involved requirement. By eliminating the requirement, the process would be easier, and it would then reduce the amount of residential density permitted in the OBP.*
- *Commissioner Jarboe stated that another option would be to maintain the PUD requirement across the board and keep it available as a relief valve for someone who would not fit within the Wedge. Someone who fits within the Wedge, which is the corridor the County wants to redevelop, go with the option of up to 49% residential as long as there is no by-right residential within the AICUZ. If they fit within the Wedge, they could go through the PUD process if they wanted to go into the AICUZ, but if they went within the Wedge exemption, they would have to stay outside of the AICUZ with a residential component only. Keeping residential out of the AICUZ is essential;*
- *Mr. Canavan strongly recommended raising the density in the DMX from 10 to 20, and this will also be presented for consideration;*
- *Commissioner Raley indicated that some type of requirement should be established to have some offices built before all the residential component is built – the entire amount of residential would not have to be completed before the first office building goes in; and*
- *Mr. Canavan was directed to move forward with this process.*

Mr. Canavan stated that the staff report on this matter would be inclusive of all the issues discussed.

## COMMISSIONERS' TIME

## **Commissioner Jarboe**

*Asked Mr. Forrest to have Mr. Walsh provide accident statistics to him on the intersection at the Farmer's Market in Charlotte Hall. Although it is a State road, and not maintained by the County, citizens express their concerns to the County as well. In particular, Commissioner Jarboe would like to know, particularly on Saturdays, how that intersection compares with other intersections in the County.*

## **Commissioner Raley**

Attended the Bay District Installation of Officers and congratulated outgoing Chief Mike Stanley and incoming Chief Wayne Johnson, as well as the other fine officers. They do a great job.

Expressed congratulations to Mr. and Mrs. Jackie Guy in Mechanicsville, whose 50<sup>th</sup> wedding anniversary he recently attended.

Had the pleasure of attending the 50<sup>th</sup> wedding anniversary of Commissioner Dement and his wife, Shirley. It was a wonderful event.

Officiated the key ceremony for the turning over of the old Lexington Park Library to the Newtowne Players and expressed thanks to Commissioner Dement for attending that event as well. Expressed thanks to the PIO staff for their work on this event, which was successful in spite of the rain. The building will no longer be sitting vacant, and the Newtowne Players, as a non-profit entity in the County, will be able to provide a valuable service to the citizens of the County.

*Commissioners recently received a letter from NAARF requesting that we consider an amendment to the Senior Citizen's Tax Cap Ordinance that is now in effect. Asked for direction from each of the Commissioners, perhaps individually, on how they would like to consider responding to the letter, such as an amendment, public hearing, etc.*

*Would like staff to report on the status of a request from ALS for supplemental appropriation for about \$18,000 to assist their members in receiving training. Mr. Forrest responded and stated that staff is currently looking into this matter and would soon provide a recommendation.*

Announced that Commissioners would be attending a groundbreaking ceremony at Carver Elementary School on Thursday at 1:00 p.m.

Invited Commissioner Jarboe to participate in the gingerbread auction event that will take place at Lettie Dent Elementary School on Friday, December 3<sup>rd</sup>.

## **Commissioner Dement**

Happened to be off on Monday and was able to attend the key presentation event for Newtowne Players on Monday.

Expressed his apologies to the Bay District Fire Department, as he was unable to attend their event due to his 50<sup>th</sup> anniversary party.

Attended the Christmas Tree Lighting event in Leonardtown on Friday evening. There was a large turnout.

Attended his first Silent Angel Memorial event, which was very rewarding.

Expressed congratulations to Wilson and Agnes Higgs upon their recent 50<sup>th</sup> wedding anniversary. They renewed their vows and were presented with a proclamation in honor of the event.

Presented a farewell commendation to Pat Gray at First National Bank upon her retirement after 35 years of service.

Attended the 80<sup>th</sup> birthday celebration on Sunday for Dick Russell.

### **Commissioner Mattingly**

Expressed congratulations to the Leonardtown Fire Department for the outstanding job they did in helping put together the Tree Lighting event on Friday night. Outlined the many ways they were involved in the event.

Also expressed congratulations to Dick Russell upon his 80<sup>th</sup> birthday.

Attended the Silent Angel Memorial event as well.

Expressed his apologies to Bay District Fire Department and Commissioner Dement, as he was unable to attend their events, as he was dealing with back problems.

Attended a highway safety meeting last week with a lot of participants. Jackie Beckman is one that Commissioner Mattingly works with frequently. Had a successful meeting.

Outlined on the dry erase board the layout of properties within the Leonardtown area, explaining that a large portion of these properties is or has been owned by distant family members. Explained that he would indeed seek an opinion from the Ethics Commission should there appear to be any potential conflict of interest regarding any property sought for County use.

**Commissioner Raley moved, seconded by Commissioner Dement, for the Board of County Commissioners to meet in Executive Session in order to discuss Litigation and Real Property Acquisition/Disposition, as provided for in Articles 24, Section 4-210(a) 8 and 11, respectively. Motion carried.**

*Donna Gebicke transcribed the following meeting minutes:*

## **EXECUTIVE SESSION**

### **Real Property Acquisition/Disposition**

**Present:** Commissioner Thomas F. McKay, President  
Commissioner Daniel H. Raley  
Commissioner Kenneth R. Dement  
Commissioner Lawrence D. Jarboe  
Commissioner Thomas A. Mattingly, Sr.  
George Forrest, County Administrator  
John Norris, County Attorney  
John Savich, Director, Dept. of Economic & Comm. Development  
Robin Finnacom, Exec. Director, Comm. Development Corp.  
Elaine Kramer, Chief Financial Officer (portion of the meeting)  
Donna Gebicke, Recorder

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

**Time Held:** 2:50 p.m. – 3:25 p.m.

**Action Taken:** The Commissioners discussed matters of real property disposition/acquisition.

### **Litigation**

**Present:** Commissioner Thomas F. McKay, President  
Commissioner Daniel H. Raley  
Commissioner Lawrence D. Jarboe  
Commissioner Thomas A. Mattingly, Sr.  
George Forrest, County Administrator  
Heidi Dudderar, Assistant County Attorney  
Joyce Malone, Real Property Manager  
Donna Gebicke, Recorder

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

**Time Held:** 3:26– 3:55 p.m.

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

*Kate Mauck recorded the remaining meeting minutes:*

### **PUBLIC HEARING: PROPOSAL TO REZONE PROPERTY SHOWN ON TAX MAP 34, GRID 21, AS PARCEL 233, IN THE 8<sup>TH</sup> ELECTION DISTRICT (PROPERTY KNOWN AS “BODY BY DESIGN”) FROM RESIDENTIAL MIXED USE (RMX) TO CORRIDOR MIXED USE (CMX) BODY BY DESIGN**

**Present:** Denis Canavan, Director, Land Use and Growth Management

Jeff Jackman, Senior Planner  
Robin Guyther, Agent  
Kirk T. Williams, Property Owner

A public hearing was conducted regarding a proposal to rezone property shown on Tax Map 34, Grid 21, as Parcel 233, in the 8<sup>th</sup> Election District, 44769 St. Andrews Church Road, from Residential Mixed Use to Corridor Mixed Use. The Property is known as “Body by Design”, and was improved with a 4,600 square-foot structure in 1970. The original building was renovated in 1998 and the operation was expanded in 2001, when an 11,000 square-foot building was added. Under Ordinance Z-90-11, the zoning district classification of the property was C General Commercial, and the instant land use was permitted. By Ordinance Z-02-01, the county was comprehensively rezoned, and the property was placed in an RMX Residential Mixed Use zone. The instant use became nonconforming at that time.

The public hearing was properly advertised on November 10<sup>th</sup> and November 17<sup>th</sup> in *The Enterprise* newspaper. Staff analysis was provided on the property and the zoning classification. The property owner was not notified of the previous change in zoning, and was unaware of the advertisements placed in the newspaper. The Planning Commission recommended denial of the property owner’s petition following their public hearing of July 26, 2004. A petition in favor of approval of the applicant’s request was signed by 60 individuals, with 30 accompanying letters for the record, and this was submitted for review on November 22, 2004. In addition, an additional petition was submitted during this meeting, signed by 14 individuals in favor of approval.

Mr. Williams reported that he has invested approximately \$650,000 into the business, and that his future and livelihood have become dependant upon the value of the property as well as the expansion of the business. Under the current zoning, he would be unable to expand as he had hoped to in the future. Mr. Williams has seven employees and has a need to hire additional employees. Mr. Williams indicated that he feels the current zoning is incorrect for his property and should become CMX.

Staff outlined the reasons for the current zoning, and indicated that their recommendation is to continue with the current zoning of RMX. In addition, Mr. Canavan submitted the option of looking at reclassification on this property under the review of the Lexington Park Development Plan.

The Commissioner President opened the public hearing for public testimony, the following individuals speaking:

Jonathan Edwards – Owner, Town Creek Shop – Expressed support of the applicant, stating that he is a hard worker, asset to the community, charges fair prices, and has a very nice looking establishment. Indicated that a poor decision was made when the zoning was changed.

Commissioner President McKay closed the public hearing as there were no other individual's were present to speak. The record will remain open for a period of ten days and written public comment, and will then be placed on an agenda of the Board of County Commissioners for discussion and a final decision.

*Commissioner Jarboe departed the meeting at this time.*

**PUBLIC HEARINGS TO CONSIDER REVIEW OF THE TEXT AND MAPS OF THE ST. MARY'S COUNTY COMPREHENSIVE WATER AND SEWERAGE PLAN FOR SEVEN PROPERTIES**

Present: Denis Canavan, Director, Land Use and Growth Management  
Chad Holdsworth, Capital Facilities Planner  
Jeff Jackman, Senior Planner  
Steve King, Metropolitan Commission  
John Norris III, County Attorney

The public hearings outlined below were conducted in order to consider review of the text and maps of the St. Mary's County Comprehensive Water and Sewerage Plan. The public hearing were properly advertised on November 10 and November 17, 2004. Receipts for public notification to adjoining property owners were submitted for the record.

**1) CWSP #04-132-014, Oakwood Lodge Townhouses (AKA: The Lodges at Piney Point)**

Present: Pat Mudd, DayTec Engineering

The request is to amend service map III-65 to change the water service category from W-6D (service in 6-10 years, developer financed) to W-3D (water service in 3-6 years, developer financed). The property owner is Oakwood Sands, Inc., and the property is located on the southwest side of Lighthouse Road, approximately 1500 feet southwest of Piney Point Road. Current zoning is TMX Town Center Mixed Use, and it is approximately 2.386 acres in size. The Planning Commission recommended approval of the request at their August 23, 2004 meeting.

Commissioner President McKay opened the public hearing for public testimony. No one was present to speak, therefore, the public hearing was closed. The record will remain open for a period of ten days for written public comment, and will then be placed on an upcoming agenda of the Board of County Commissioners for discussion and a final decision.

**2) CWSP #04-120-014, St. Mary's Crossing Subdivision**

Present: John Norris, NG&O Engineering

The request is to amend service area maps III-42 and IV-42 to change from W-6 (water service within 6-10 years) and S-6 (sewer service in 6-10 years) to W-3D (water service within 3-5 years, developer financed) and S-3D (sewer service in 3-5 years, developer financed). The property owner is St. Mary's Crossing, Ltd., and the property is located on the south side of St. Andrew's Church Road at St. Andrews Lane. Current zoning is Residential, Low Density (RL), and it is approximately 249.486 acres in size. The Planning Commission recommended approval of the request during their September 13, 2004 meeting.

Commissioner President McKay opened the public hearing for public testimony, with the following individual(s) speaking:

Eileen Hislop – St. Andrews Lane – Against - Reported that residents of St. Andrews Estates just replaced their well drainage and it has been replaced twice. Very concerned about the traffic – there are 333 residences with only one entry way onto Route 4. It's already difficult to go onto the road, and dangerous as well. Total density would become 395 and that is too many. Commissioners stated that the final determination on the allowance to build would have to meet adequate public facilities.

Commissioner President McKay closed the public hearing as no one else was present to speak. The record will remain open for a period of ten days for written public comment, and will then be placed on an upcoming agenda of the Board of County Commissioners for discussion and a final decision.

### **3) CWSP #03-120-014, Essex Woods and Essex Woods North Subdivision**

Present: Jerry Nokelby, Nokleby Surveying

The request is to amend service maps III-51 and IV-51 to change the service area categories from W-6D (water service in 6-10 years) and S-6D (sewer service in 6-10 years) to W-3D (water service in 3-5 years, developer financed) and S-3D (sewer service in 3-5 years, developer financed). The property owner is Dennis Edwards, and the property is located on the west side of Willows Road, 3,600' south of MD 246 Great Mills Road on Essex Drive South. Current zoning is RL Residential Low Density, RMX Residential Mixed Use and CC Community Commercial, and it is approximately 132.07 acres in size. The Planning Commission recommended approval of the request during their meeting of October 12, 2004.

Commissioner President McKay opened the public hearing for public testimony, and then closed it, as no one was present to speak. The record will remain open for a period of ten days for written public comment, and will then be placed on an upcoming agenda of the Board of County Commissioners for discussion and a final decision.

### **4) CWSP #04-120-018, Eldorado Farm Subdivision**

Present: Randy Barrett, Barrett & Associates, Inc.

The request is to amend service map III-4 to change the water service category from NPS (No Planned Service) to RW (Rural Water Service, developer financed). The property owners are Raymond and Lois A. Leicht, and the property is located at 29844 Eldorado Farm Lane in Mechanicsville. Current zoning is Rural Preservation District (RPD), and it is approximately 115.6 acres in size. The Planning Commission recommended approval of the request during their meeting of October 12, 2004.

Commissioner President McKay opened the public hearing for public testimony, with the following individual(s) speaking:

Dean George – Laurel Ridge Drive – Against the development due to increase in traffic with too many houses and flooding problems on his property. Fifteen different septic systems have already gone bad since he has lived there. The new proposed road would bust up his whole driveway and the area, and would cause flooding and/or water runoff. Trees would be removed and mud would be a problem. With 206 homes in the area, including offshoot roads, he gets a lot turnaround traffic, as many as 20 vehicles a day, although most of the traffic is at the main entrance.

Bob Earhart – Laurel Ridge Drive – Asked about public water system by the number of lots. Was content with the response.

Commissioner President McKay closed the public hearing as no one else was present to speak. The record will remain open for a period of ten days for written public comment, and will then be placed on an upcoming agenda of the Board of County Commissioners for discussion and a final decision.

##### **5) CWSP #04-120-016, Heritage Manor Subdivision**

Present: Randy Barrett, Barrett and Associates, Inc.

The request is to amend service map III-63 to change the water service category from NPS (No Planned Service) to RW (Rural Water Service, developer financed). The property owner is Evelyn S. Clark, and the property is located on Point Lookout Road in St. Mary's City, on the west side of MD 5, two miles south of Mattapany Road at the end of Heritage Hills Lane. Current zoning is Rural Reservation District (RPD), and it is approximately 111.64 acres in size. The Planning Commission granted concept approval on August 9, 2004. On September 27, 2004, the Planning Commission held a public hearing and recommended denial of the application during their October 12, 2004 meeting. The Planning Commission reconsidered their recommendation at the November 22, 2004 meeting, and reversed their previous recommendation and recommended approval by a vote of 4:3.

Information presented by staff indicated that the Planning Commission did not have a unanimous vote due to the property's close proximity to Webster Field. There is no

AICUZ overlay around Webster Field. In addition, the November 22, 2004 Planning Commission meeting minutes that were submitted for review were still in draft format.

The request would allow for a water system to connect to 37 lots, with a total of 42 lots in all to be added to the Heritage Manor Subdivision. Lengthy discussion included the issued of transferable development rights.

Commissioner President McKay opened the public hearing for public testimony, with the following individual(s) speaking:

Ron Harvey – Heritage Hill Lane - Against – TDRs are being used in order to increase the density in St. Inigoes. There are only 126 acres and 42 lots would be built. The Planning Commission originally tried to do the right thing, but then ruled differently during the appeal process. Referred to an article in Friday's *Enterprise* about TDRs being used in rural areas to increase density – stated that this is wrong.

Mike Johnston – Heritage Hill Lane - Against – Stated that the Planning Commission tried to do the right thing at first and then, after hearing from the County Attorney on technicalities, they checked their common sense in at the door. They should only have paid attention to the water issue. The economic impact of this being approved will affect the County in a negative way and this development is critical at it relates to Webster Field. TDRs were not imagined as a possibility to use to create additional housing at the time the determination was made that no AICUZ was necessary established around Webster Field. The Field is critical to the Navy. Oceana, Virginia allowed one dense development around their airfield and look what it has now become.

Paul Lynch – Heritage Hill Lane - Against - Giving water approval is the first step toward a large development, and the area needs to stay rural. If the builder places one in five acres, then he would have 20. He must be stopped from building 42, and must stay with 20 homes.

Jack Lynch – Waterview Drive - Against - outlined BRAC concerns regarding flight activity around Webster Field – stated that no obstacles should be placed in that area. He and his wife were co-owners of the property and the criteria under which they sold the property was that a small development with quality homes would be built. They were told a year ago that 15 lots for 10 perc tests were needed to ensure it would work. In January, the developer went back and asked for an additional 32 percs. He should have notified us, as we signed the contract without knowing this information. Feels misled and stated that the development should be limited to 20-22 homes.

Randy Barrett – Barrett and Associates - In Favor – felt that the availability of housing for Webster Field is important and would be used as a BRAC concern.

Dean Beck - Developer – Stated that he purchased the property from the Clark family and at a meeting with the neighbors, the majority of the conversation that took place involved the quality of homes to be built in a subdivision. Outlined reasons for the perc

tests that were completed in two different phases. There is a 50-foot deeded right-of-way to get back to the property. Everyone at the meeting was excited that snow removal would be done for them. Asked that the water category change decision be based on the facts of what is actually allowed.

Nancy Danuanan – Heritage Hill Lane - Against – Lives in the adjacent Lot #7, which is part of this builder's plan and has lived there more than one year. Asked that the request be denied, and that approval be given for only 15-20 homes. Indicated that the Clarks and Lynches were told one thing and another was done, which is a bait and switch tactic. If the developer build out the land at 1 in 5, then water would not be necessary.

Jerry Nokelby – Nokelby Surveying, Inc. – Stated that he was paid by the Clark and Lynch families to survey the property for the concept plan for Dean Beck. He staked out lots and roads in the initial stage in the amount of 37 lots. Stated that the subdivision was always for 37 lots.

The Commissioner President allowed brief follow-up remarks at this time as follows:

Jack Lynch (second set of remarks) – Against - Outlined how the sale of the lots was broken down.

Paul Lynch (second set of remarks) –Against – Stated that Mr. Beck did talk with them about road, and that he signed off on a slope and drainage issue, but Mr. Beck never once stated that he would develop more than 15 lots.

Mike Johnston (second set of remarks) – Against – Stated that regarding BRAC, people need a place to live, but you can not make an airfield move. Asked Commissioners to limit growth around Webster Field.

Terrie Blair-Harvey – Heritage Hill Lane - Against - Reiterated that Mr. Beck told the group at her home that he was planning to develop 15 houses.

Dean Beck (second set of remarks) – Stated that he purchased 96 acres, plus an addition two-acre lot. He met with neighbors and the question of how many houses were to be built never came up.

Dave Roberts – Point Lookout Road – Against – Lives adjacent to the subdivision to be built. Purchased extra land due to the rural character of the area. Has never once been approached by Mr. Beck.

Dean Wilkenson – Barrett Associates – Outlined that 50% of the property would be protected due to wetlands, etc. and that lots have been clustered. The development is isolated to the rear portion of the site.

Commissioner President McKay closed the public hearing as no one else was present to speak. The record will remain open for a period of ten days for written public comment,

and will then be placed on an upcoming agenda of the Board of County Commissioners for discussion and a final decision.

#### **6) CWSP #04-120-015, Grandview Haven Subdivision**

Present: Randy Barrett, Barrett and Associates, Inc.

The request is to amend service map III-18 to change the water service category from NPS (No Planned Service) to RW (Rural Water Service, developer financed). The property owners are Norman and Richard Bernstein, and the property is located on the west side of Morganza Turner Road, approximately 3,600 feet north of intersection with MD 5. Current zoning is Rural Preservation District (RPD), and it is approximately 295.23 acres in size. The Planning Commission recommended approval of the request during their October 12, 2004 meeting.

Commissioner President McKay opened the public hearing for public testimony, with the following individual(s) speaking:

Tim Gatton – Morganza Turner Road – Against - Stated that he lived previously on Flat Iron Road and left that location when development was about to begin. Moved intentionally into a Rural Preservation District, and asked that it not be changed. Feels it should be maintained as RPD.

Dean Beck – Developer – Stated that over half of the property would be set aside, and that a deep well would be placed. Asked the Commissioners to approve the request.

Unidentified Citizen – Asked how the public can know when road and density issues come up if they are not personally given notification. The Commissioners responded, explaining that notices are placed in the newspaper and the County has a website which has a posted agenda as well. Mr. Canavan offered to meet with the gentleman after the meeting in order to record his contact information. The Department of Land Use and Growth Management would then contact him personally when this issue is placed on another agenda.

Commissioner President McKay closed the public hearing as no one else was present to speak. The record will remain open for a period of ten days for written public comment, and will then be placed on an upcoming agenda of the Board of County Commissioners for discussion and a final decision.

#### **7) CWSP #04-120-023, The Estates at Joy Chapel**

Present: Bill Higgs, Mehaffey and Associates

The request is to amend service maps III-27 and IV-27 to change the service categories from W-6D (Water Service in 6-10 years, developer financed) and S-6D (Sewer Service in 6-10 years, developer financed) to W-3D (Water Service in 3-6 years, developer financed) and S-3D (Sewer Service in 3-6 years, developer financed). The property

owner is Dillow Revocable Trust c/o Mark Dillow, and the property is located at the southeast corner of the intersection of Mervell Dean Road and Joy Chapel Road. Current zoning is Residential Mixed Use (RMX), and it is approximately 33.875 acres in size. The Planning Commission recommended approval of the request at their meeting of September 27, 2004.

Commissioner President McKay opened the public hearing for public testimony, and as no one was present to speak, he closed the public hearing. The record will remain open for a period of ten days for written public comment, and will then be placed on an upcoming agenda of the Board of County Commissioners for discussion and a final decision.

### **ADJOURNMENT**

The meeting adjourned at 9:02 p.m.

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

\_\_\_\_\_  
Kate Mauck, Senior Administrative Coordinator  
to the Board of County Commissioners

