

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING
CHESAPEAKE BUILDING * LEONARDTOWN, MARYLAND
Monday, February 28, 2011**

Members present were Brandon Hayden, Chairman; Shelby Guazzo, Joe Meinert, Susan McNeill, Merl Evans, Martin Siebert, and Hal Willard. Department of Land Use & Growth Management (LUGM) staff present were Derick Berlage, Director; Phil Shire, Deputy Director; Bob Bowles, Planner IV; Jeff Jackman, Senior Planner; Dave Chapman, Capital Facilities Planner; and Jada Stuckert, Recording Secretary. Deputy County Attorney David Weiskopf was also present.

The Chair called the meeting to order at 6:30 p.m.

APPROVAL OF THE MINUTES – The minutes of January 24, 2011 were approved as amended.

PUBLIC HEARING

CWSP #10-200-004 – Leonardtown Treated Wastewater Land Application “Hayden Property”

Mr. Berlage gave a brief history of wastewater in St. Mary's County. Mr. Chapman gave the legal description and an overview of the request to amend section 4.5.3 of the CWSP to describe the future expansion of the Leonardtown Wastewater Treatment Plant capacity through the land application of treated wastewater by spray or drip irrigation. Also proposed amendments to Water Service Area Map III-32 to change the service category from W-6D (service in 6 to 10 years, developer financed) to W-3D (service in 3 to 5 years, developer financed) for the following properties located in the 3rd Election District (also known as part of The Hayden Property):

Tax Map 32, Grid 11, Parcel 339, Outparcel A (89.56 acres)

Tax Map 32, Grid 11, Parcel 339, Lot 1 (1.06 acres)

Tax Map 32, Grid 11, Parcel 225 (1.69 acres)

These map amendments will facilitate the provision of public water service for future public facilities at that location. The above properties are currently in sewer service category S-3D and do not require amending to facilitate future public sewer service. Mr. Chapman stated notice of the public hearing was duly advertised in The Enterprise on February 11, 2011 and February 16, 2011.

Ms. Guazzo asked if spray or drip irrigation is currently prohibited from being done in the Rural Preservation District (RPD). Mr. Chapman stated no. Ms. McNeill asked who owns this property. Mr. Berlage stated there are two items before you this evening. Mr. Berlage stated the request to amend the water and sewer category is site specific to the Hayden property which is County owned. Mr. Berlage stated the request to amend Section 4.5.3.A of the Comprehensive Water and Sewerage Plan (CWSP) applies to all areas in the County. Ms. McNeill stated she has a general concern towards the water and sewer categories and stated all categories should be reviewed during the re-write of the CWSP.

Ms. McNeill asked how this idea came about and requested more history. Ms. McNeill asked what the timeline is for this process. Mr. Meinert asked how far in advance the property is posted. Mr. Chapman stated the property is posted at least 15 days prior to the hearing. Mr. Meinert asked who raised questions regarding the public notice as noted in the supplemental staff report. Mr. Jackman stated after the property was posted general questions came in from The Bay Net via phone. Mr. Meinert asked if the Hayden Property would be annexed by the Town of Leonardtown. Mr. Berlage stated we do not have the answer to this question as of yet. Mr. Meinert stated for them to provide the services from their plant he believes they are required to be incorporated with the Town. Mr. Jackman stated they maintain a policy of not serving customers outside Town limits. Mr. Jackman stated if it comes to a point where properties develop prior to them being annexed into the Town there would have to be an onsite multi-user water facility provided on the property. Mr. Meinert stated he is concerned that Section III of the staff report uses the words “will be addressed” stating it concerns him that this information has not been provided yet. Mr. Meinert stated he is not sure that we have the amount of information we need before us to make an educated decision. Mr. Berlage stated the Commission is not expected to make a decision tonight. Mr. Berlage stated a better rendition of the staff report will be provided.

Ms. McNeill referenced a recent newspaper article which indicated concerns in 2008 about the monitoring of discharge of these types of systems in Calvert County. Ms. McNeill stated her concern is who will be monitoring the discharge at this particular site. Mr. Jackman stated we rely on other agencies such as the Maryland Department of the Environment to help us in these instances. Mr. Jackman stated with the existing spray/drip irrigation systems in St. Mary's County he is unaware of any complaints or violations. Mr. Berlage stated staff would provide more information regarding the Calvert system. Mr. Evans asked if we could somehow make the "Pipeline" article which was provided in the staff report widely available to the public. Mr. Evans stated there is currently some type of monitoring the Breton Bay system. Ms. Guazzo referenced 1.A of the staff report and asked what would be done to make sure viruses are covered during the pre-treatment of the effluent.

Chairman Hayden opened the public hearing to receive public comment.

Mr. Dan Guy Sr.

Mr. Guy stated someone has looked into the possibility of putting this system behind the Governmental Center and asked why the facility isn't being placed in this location. Mr. Guy asked how and who will determine which system is used when it comes to drip versus spray? Mr. Guy stated the wind naturally blows from the northwest and he is concerned the spray irrigation will blow onto his property. Mr. Guy asked what the capacity of this system will be.

Ms. Pat Guy

Ms. Guy referenced a newspaper article where Mr. George Erichsen states the facility will be placed on the Hayden farm however the exact location has yet to be decided. Ms. Guy stated in the same article Ms. McKay states the facility can not go on the Governmental Center property because the land is not feasible. Ms. Guy stated she would like to know why the Governmental Center is not feasible. Ms. Guy asked how many residences have these facilities in St. Mary's County. Ms. Guy asked what research has proven the safety of these types of systems. Ms. Guy stated sewerage leakage can cause a lot of problems such as smell. Ms. Guy stated the report indicated the sewage capacity is being evaluated through a study funded jointly by the Town of Leonardtown and St. Mary's County. Ms. Guy asked who is conducting these studies, are environmental experts coming in to help with the study and have you considered the economic impact on the residential property owners on Cemetery Road and adjacent property.

Mr. Chris Bates

Mr. Bates stated he has grave concerns about using the Hayden Farm property to dispose of wastewater effluents with the primary concern being safety. Mr. Bates stated the land is in close proximity to a large number of residences and will include two new schools, a library, and ball fields in the future. Mr. Bates stated the land has very poor absorption properties which often lead to excessive run-off and pooling. Mr. Bates asked what studies were conducted to find a suitable location for this facility, how did Hayden Farm make it to the top of the list, what assurance do we have that our children will not be affected, will holding ponds be used, if so what will they look like, what will the piping look like, what tests have been done and will be done and what are the qualifications of the persons conducting the tests. Mr. Bates supports using new technologies however does not support taking unnecessary risks.

Mr. Robert Hayes

Mr. Hayes asked if the holding capacity in Town to avoid possible overflows and to clean the water. Mr. Hayes stated once it is pumped back out to the Hayden Farm will there be an odor. Mr. Hayes stated there are two endangered species on this property, a frog and a snail. Mr. Hayes stated there is a pond in the middle of the protected area and asked if this will turn into a septic system. Mr. Hayes asked if the Town is willing to filter the ponds and if there will be buffers in place. Mr. Hayes questioned the 1 acre lot on across the street from him and asked if it would be included in this request. Mr. Chapman stated no, the two lots on the south side of Cemetery Road are not included in the request for a water and sewer category change.

Mr. Scott Novinger

Mr. Novinger stated he shares concerns with Mr. Meinert regarding the lack of information in the staff report. Mr. Novinger stated we are currently operating at a .04 capacity and the maximum capacity is advertised as 0.68 and asked why we are doubling capacity at this time. Mr. Novinger asked if this economically feasible to implement. Mr. Novinger stated his research indicates spray fields must have buffer zones. Mr. Novinger stated the Pipeline article is good however he would like to see a more recent document other than 1999.

Mr. Scott Potas

Mr. Potas agreed with Mr. Meinert's comments regarding the staff report and asked about the timeline for development. Mr. Potas stated he is concerned with the cost issue considering this seems to be a long way to be pumping effluents. Mr. Potas asked how many acres are needed and asked that information be provided on the effect of effluents, rules and regulations on how it can be applied or when it can be applied, etc.

Mr. Carl Neeley

Mr. Neeley asked if there are any other properties that are being considered for this type of facility. Mr. Neeley asked what areas of the Hayden Farm are under consideration for the facility. Mr. Neeley stated there are protected animal and plant species on this property. Mr. Neeley did not receive registered mail and contacted the Department of Land Use and Growth Management who indicated that the only persons being notified were adjoining owners. Mr. Neeley stated the Leonardtown facility is 14 units short of meeting the needs of meeting this particular requirements for the jail. Mr. Neeley asked why seven of the developments that have been approved but not allocated couldn't be downsized a bit to accommodate the jail.

Ms. Laura Scholtz

Ms. Scholtz stated she was under the impression that Maryland had a moratorium on drip and spray irrigation and asked how this would impact all this discussion.

Ms. Kimberly Howe, St. Mary's County Public Schools (SMCPS)

Ms. Howe stated SMCPS is aware of the two different requests. Ms. Howe stated because there is a school proposed for this property we are in support of the CWSP category change. Ms. Howe stated we have not received specific information regarding the drip/spray irrigation and SMCPS will be entering a letter for public testimony will be submitting a letter regarding these questions.

Mr. Robert Hayes

Mr. Hayes asked if this is the only public meeting that will be held on this proposal. Mr. Hayden explained the Planning Commission only makes a recommendation to the Board of County Commissioners therefore; the Board of County Commissioners will have to hold a public hearing prior to them making their final decision. Mr. Hayes asked if Metcom, the Health Department and the Environmental Protection Agency have committed any statement of viability for this proposal.

Chairman Hayden closed the public hearing to public testimony and left the record open for 14 days to receive written comments. Written comments may be sent to the Department of Land Use and Growth Management until the close of business on March 14, 2011.

Mr. Meinert questioned the spreadsheet with three public comments. Mr. Chapman explained these are comments that have been received in the Land Use and Growth Management office since the posting. Ms. Guazzo asked where this is physically going to happen and when? Ms. McNeill asked if the increase of capacity is related to the discharge of effluents. Ms. Guazzo asked if the existing infrastructure can be made to run faster with a bigger pipe. Mr. Berlage stated we will be able to answer some of the questions now however some answers would need to be mailed to owners.

Mr. George Erichsen, Director of the Department of Public Works & Transportation acknowledged that the public asked very good questions and stated he would attempt to provide answers to as many questions as possible at this time. Mr. Erichsen stated there was a Treatment Plant Effluent Study performed in November 2009 by Stearns & Wheeler which is the consultant the Town of Leonardtown currently uses

for their Wastewater Treatment Plant. Mr. Erichsen stated that most recently the Hayden Farm is being evaluated for drip or spray irrigation and the testing being done on the property to determine whether or not this would be feasible should be completed after the wet percolation season. Mr. Erichsen stated four (4) potential land application sites were evaluated in 2009; the Hayden Farm, the Governmental Center Campus, the Burch Property, and the Wilkinson Tract. Mr. Erichsen explained the Governmental Center site was not feasible due to a thick layer of "fragipan" underneath the soil which resulted in unacceptable percolation tests. Mr. Erichsen explained MDE and the EPA will not allow the County to break up the "fragipan" to utilize the good percolation soils underneath the layer. He said that several attempts to encourage MDE to allow the application on the Governmental Center Campus were denied and that it was the County's preference to use the Governmental Center property since it would reduce the capital cost of extending a transmission main all the way to the Hayden property. Mr. Erichsen stated that approximately twelve (12) acres have been identified on the site and that buffers should be considered during this process. Mr. Erichsen explained that 100% reserve area is needed for back-up capacity for drip irrigation and that although a secondary back-up site for spray irrigation is not required, expanded buffers from adjacent properties are needed.

Mr. Erichsen stated in regards to safety there are many different types of effluent quality; Class 1, Class 2, and Class 3 categories with a new commercial Class 4 which is expected to be adopted by the State in June 2011. Class 4 quality standards would allow treated effluent to be utilized for laundry, air conditioning, window washing etc which will enable the Adult Detention Center project to re-use what is called "purple water" and also enable farmers that are adjacent to the transmission main to possibly tap into the system and irrigate crops (such as hay, feed corn, etc) during drought conditions. Mr. Erichsen explained Class 1 and 2 treatments have restricted public access uses and Class 3, which is a higher level of treatment, there are unrestricted public access uses. Mr. Erichsen stated you can be permitted to use spray or drip irrigation on parks, schools, and playgrounds as long as the effluent meets a Class 3 effluent treatment quality. Mr. Erichsen stated the Leonardtown Treatment Plant is currently a bio-nutrient removal (BNR) plant that has a 0.68 mgd capacity and is ultimately proposed to be expanded to 1.2 mgd enhanced nutrient removal (ENR) facility. One of the economic reasons land applications is being evaluated is because the ENR upgrade to the plant is estimated to cost roughly 15 million dollars whereas a drip or spray irrigation system of this size is approximately 1 to 2 million dollars.

Mr. Erichsen confirmed that there is currently a temporary State moratorium on drip irrigation until August 2011 however this does not apply to spray irrigation. In response to the inquiry regarding why additional capacity at the plant was needed when it is currently operating below the existing permitted capacity, Mr. Erichsen advised that the Town has already assigned EDU's to approve projects that are not yet under construction. Ms. McNeill asked about financing. Mr. Erichsen stated that it is possible for the County to pay the Town for EDU allocations and have them deal with the capacity issues or utilize the budgeted EDU money for a mutually beneficial solution that could possibly defer the \$15M plant upgrade. Mr. Hayden and Ms. Guazzo asked if there would be on-site holding ponds and if the hours that the treated effluent would be pumped out to the property could be adjustable. Mr. Erichsen stated there would be no surface ponds holding effluent on the Hayden property, but that effluent would be held and treated at the Town's treatment plant prior to being pumped out the Hayden Property. Also, other factors like the prevailing wind direction would be considered to determine whether a drip or spray system was more feasible and in order to help ensure we wouldn't be creating a nuisance to abutting properties.

Ms. Guazzo asked if we could get more updated information / better science than what was provided in the Commission's informational packages. Mr. Erichsen stated there are many other scientific articles, but he believed that LUGM chose the 1999 *Pipeline* pamphlet for its understandability, ease to read and that it included diagrams of the drip irrigation system. Ms. McNeill asked if anyone else would be able to tap into the system to use the purple water and if so, would they help with the financing. Mr. Erichsen stated that the current design for the transmission main will propose "T-connections" which will allow farmers the ability to utilize the purple water for irrigation. Farmers would have to bear the cost of pumping and transmitting the effluent from the main line to their fields, which may be cost prohibitive. Since there is a cost associated for being able to use the effluent for land application, the T's will be put in rather than having them contribute to the cost and it would be the owners' expense to connect on an individual basis.

Mr. Seibert asked if the drip irrigation will take place after the school is placed. Mr. Seibert asked if this would hurt the resale value of this property. Mr. Erichsen stated no, since what is proposed is a treatment that is intended for areas with unrestricted public access or for all purpose re-use. Mr. Erichsen stated that the drip irrigation locations currently being evaluated will be constructed below public use areas such as school and recreational fields, etc. Mr. Seibert asked if something could go wrong to make us limit the use of this property. Mr. Erichsen stated he did not believe it would because this is a valve-type system and if a problem occurs the valve would be simply turned off until the problem is fixed. Mr. Seibert asked if MDE would oversee this project. Mr. Erichsen stated it will be a combination of departments including the EPA, MDE, Health Department, etc. The Town would also have to supply a certified treatment plant operator to monitor and maintain the system. Mr. Meinert stated the discharge permit is for the drip irrigation only. Mr. Erichsen stated that the permits would be for land application for either drip and/or spray and that the method chosen would most likely be on included in the permit. Mr. Seibert asked which process is better. Mr. Erichsen stated that if it was a personal opinion being requested, that he is more a fan of drip irrigation, however there are positive arguments for both techniques. Mr. Evans asked if the school would be able to utilize purple water. Mr. Erichsen stated the school is being modeled after the new Evergreen Elementary school which will be on public water and sewer. Although, they may be able to use purple water, the design will most likely rely more on other water and energy conservation and re-use techniques.

Mr. Calvano, Health Department, stated he feels it in the best interest of the public to answer some of these questions tonight. Mr. Calvano stated he looked at a span of 10 years in which well over 1,000 complaints were received at the Health Department and not one has come in for odor in Breton Bay or Wicomico Shores. Mr. Erichsen stated that the Class 3 and 4 effluent quality standards remove more of the fecal coliform and phosphorous, which can be a source of odor in lower treatment standards. Ms. Guazzo asked if Wicomico Shores discharges into the water. Mr. Calvano deferred this question to Metcom. Mr. Calvano stated we do have drip systems in the County and the number of systems is somewhat small however there have been no complaints, the quality of the effluent is not even close to the higher Class 3 and Class 4 effluents we are discussing tonight.

Mr. Willard asked if thought has been given to charging (pressurizing) the fire suppression systems with effluent since fire departments use a lot of water. Mr. Erichsen stated this is definitely something that should be looked into as a part of any facility designs as well as other water re-use and water conservation practices. Mr. Meinert asked if there is any chance that we will be using anything other than Class 3 and Class 4 and asked if this could be a stipulation in our recommendation. Mr. Erichsen stated that this recommendation could be made, however you may not want to make it a requirements as it may be cost prohibitive for some smaller effluent producers. In addition, he's sure the public would still generate the same type questions in the end. Mr. Seibert asked if Class 1 or 2 treatments were used, could damage be done to the property to make it none usable in the long run. Mr. Erichsen stated Class 1 and 2 treatment standards are not feasible for this property because the Master Plan is clearly not a restricted public use property. Ms. McNeill asked if this is something that is discussed in the permitting process, would the permit be for a certain class. Mr. Erichsen stated the permit would stipulate the standards for the specific class effluent. Mr. Seibert asked if a long term lease could be done with a different landowner to lease space for land application. Mr. Erichsen advised that the County evaluated several other properties, but determined that this particular County-owned property was the best suited and also avoided possible land acquisition costs. Mr. Evans stated it would be really helpful if Leonardtown and Metcom could shed some light on this. Mr. Berlage stated a representative from Leonardtown had planned to be here however due to an illness was unable to attend tonight however; Metcom is here to provide information and answer questions.

BREAK

Ms. Meiser stated conceptually Metcom has no problem with the water and sewer category change. Ms. Meiser stated the text amendment is simply a proposal in text and Metcom has no issue. Ms. McNeill asked about financing and a possible MDE loan. Ms. Meiser stated this would not be a Metcom project therefore the Developer (County) would need to seek funding. Ms. Meiser stated Leonardtown would be responsible for treating the water and Metcom would be in charge of managing the drip irrigation system.

Mr. Hayden stated there's a moratorium on drip irrigation systems and asked if this is why the spray system is also being proposed. Ms. Meiser stated both systems would need to be utilized to dispose of all the effluent. Mr. Evans stated in the near future, issuing discharge permits allowing effluent to be pumped into local tributaries will be eliminated. Mr. Evans stated without implementing technology such as "drip and spray applications" and developing new technologies to address treated water there will conceivably come a time, no new development will be allowed. Mr. Evans stated, additionally, systems as they exist today without major upgrades will be stressed to address treated water at current levels and may find it impossible under new MDE and EPA rules. Mr. Evans stated this is not just a Leonardtown issue, this is a county and state and federal issue and as such must (will) be addressed by all stakeholders. Ms. Meiser stated she agrees and that the text amendment is simply to state where, when or how drip or spray irrigation systems will be utilized.

Mr. Evans stated the important factor here is that this treated water has to be used. Ms. McNeill stated we really need to address this more broadly in the CWSP rather than just in Leonardtown. Ms. Guazzo asked if Wicomico Shores discharges into the river and what is the primary system being used. Ms. Meiser stated it is rapid filtration basin system which does not discharge into the river.

Mr. Seibert stated he is hearing that we really need to get over this because it is going to happen soon. Mr. Seibert asked if someone could put together a quick outline on the disposal of treated effluents in general for the County. Ms. Meiser stated she would have her staff put this information together for the PC members. Ms. Meiser stated she feels drip and spray irrigation should be an option included within the CWSP.

Mr. Berlage stated we will return when the written record closes. Mr. Evans asked how we will get all the answers to all the questions heard here tonight. Mr. Berlage stated a spreadsheet outlining all the question along with their answers would be provided at the 3/14/11 meeting.

DISCUSSION

Priority Funding Area (PFA) Revisions

Mr. Berlage and Jackman gave an overview of the Priority Funding Area Revisions. Mr. Jackman stated staff did not provide a sample motion for the Commission tonight however does hope that the Commission will endorse the revisions in a recommendation to the County Commissioners.

St. Mary's Crossing Traffic Impact Issues – Postponed to next meeting on March 14, 2011.

ANNOUNCEMENTS

Mr. Evans stated the Maryland legislature is considering an amendment that might do away with "Open Space" funding. Mr. Evans stated the Commissioners are to forward a letter to the legislature in opposition of the removal of funds.

ADJOURNMENT

The meeting was adjourned at 9:45 p.m.

Jada Stuckert
Recording Secretary

Approved in open session: March 14, 2011

Brandon Hayden
Chairman