

**ST. MARYS COUNTY
BOARD OF COUNTY COMMISSIONERS MEETING
GOVERNMENTAL CENTER
Tuesday, January 15, 2008**

Present: Commissioner President Francis Jack Russell
Commissioner Kenneth R. Dement
Commissioner Lawrence D. Jarboe
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley
John Savich, County Administrator
Betty Jean Pasko, Sr. Administrative Coordinator (Recorder)

CALL TO ORDER

Commissioner President Russell called the meeting to order at 9:00 AM.

AGENDA ADDITION

Commissioner Mattingly stated that the Nursing Home position may also be included in the Executive Session discussion of board, committee, and commission year-end appointments/reappointments.

APPROVAL OF CHECK REGISTER

Commissioner Raley moved, seconded by Commissioner Jarboe, to authorize the Commissioner President to sign the Check Register, for checks dated January 15, 2008, as submitted. Motion carried 5-0.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Mattingly, to adopt the minutes of the Commissioners meeting of January 8, 2008, as submitted. Motion carried 4-0, with one abstention (Commissioner Dement, who was not in attendance at the January 8 meeting).

COUNTY ADMINISTRATOR

1. Draft Agendas for January 22 and 29, 2008

2. **St. Marys County Library** (*Kathleen Reif, Library Director*)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and sign the Letter of Commitment to the Maryland Division of Library Development and Services Office regarding the Leonardtown Library expansion project. Motion carried 5-0.

3. **St. Marys County Health Dept. and Marcey House** (*Dr. William Icenhower, Health Officer; Larry Harvey, Marcey House Director*)

Commissioner Raley moved, seconded by Commissioner Mattingly, to approve the Alcohol and Drug Abuse Treatment and Prevention Programs MOU between the St. Marys County Health Department and the Marcey House, and to authorize the Commissioner President to sign the Budget Amendment, in the amount of \$5,000, to set up the project budget, and to sign the related Sub-recipient agreement with the Health Department. Motion carried 5-0.

4. **Dept. of Economic and Community Development** (*Bob Schaller, Director; Dennis Nicholson; Executive Director, HASMC; Cindy Phillips, Program Manager, HASMC*)

Commissioner Jarboe moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the FY2008 Rental Allowance Program Local Program Application and Grant Agreement. Motion carried 5-0.

5. **Dept. of Public Works & Transportation** (*George Erichsen, P.E., Director*)

Commissioner Mattingly moved, seconded by Commissioner Dement, to table action on item 5a until next week. Motion carried 5-0.

(5a: To approve and authorize the Commissioner President to sign the Public Works Agreement for FDR Boulevard at Buck Hewitt Road, White Oak Subdivision, located in the 8th Election District, with an Expiration Date of December 1, 2008.

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Joint Use Easement Agreement between SMECO, the Board of County Commissioners, and Pembroke, LLC, to allow construction and maintenance of roadways in order to provide access to Phases 2, 3, and 4 of the Pembroke Subdivision within the SMECO easement on property owned by Pembroke, LLC. Motion carried 5-0. Motion pertains to Chelmsford Drive, Shelton Drive, and Middlegate Drive.

6. **Dept. of Aging** (*Jennie Page, Deputy Director; Peggy Maio, Fiscal Supervisor*)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the St. Marys County Department of Aging Notification of Grant Award on the Nutrition Services Incentive Program and the related Budget Amendment, increasing the NSIP Grant project account by \$11,978, to align the account with the actual grant award. Motion carried 5-0.

7. **Dept. of Public Safety** (*Dave Zylak, Director; Michelle Lilly, Mgr., Emergency Mgmt. Div.*)

Commissioner Raley moved, seconded by Commissioner Dement, to approve the recommendation of the Public Safety Director for the expenditure of the Homeland Security funds in the amount of \$80,000 for Interoperability Communications and \$62,000 for Critical Infrastructure Protection as outlined in the January 2, 2008, memorandum to Mr. John Savich, County Administrator from Mr. David Zylak, Director of Public Safety. Motion carried 5-0.

8. **Board Appointment** (*John Savich, County Administrator*)

Commissioner Jarboe moved, seconded by Commissioner Mattingly, to appoint Nancy Luginbill to the Family Violence Coordinating Council, as the Health Department representative. Motion carried 5-0.

DEPT. OF LU&GM: INTRODUCTION OF ZONING AND SUBDIVISION ORDINANCE AMENDMENTS RE ADEQUATE PUBLIC FACILITIES (APF) AND THE COUNTYS ANNUAL GROWTH POLICY

Present: Denis Canavan, Director, LU&GM

Mr. Canavan presented prepared text amendments as recommended by the community-based Adequate Public Facilities (APF) Task Force, and requested authorization to proceed with processing them through the Planning Commission for their review and recommendation to the BOCC. The APF Task Force has worked on this initiative for over two years, making presentations to the BOCC in 2006 and in November, 2007. The APF Task Force presented their suggestions to the Planning Commission early in 2007. The Planning Commissions recommendations are reflected in their respective minutes and adopted resolution of March 2007.

Mr. Canavan continued by stating the thrust of the amendments is primarily threefold:

1. It will provide the County with an Annual Growth Policy that sets the percentage increase in residential growth that may occur in a given year. -- The recommend growth rate is 2.25%. The BOCC will review the growth rate yearly determine it remains appropriate or needs adjustment.
2. It directs a large percentage of proposed residential development to designated growth areas (70%), and a smaller percentage of growth to be allowed in the Rural Preservation Area. (30%).
3. It addresses the determination of adequacy for school capacity as determined by Chapter 70 of the Zoning Ordinance. -- Chapter 70 has a current cap at 107%

(over the state rated capacity); the text amendment holds 107% at the elementary level, increases to 109% at the middle level, and 111% at the high school level.

Mr. Canavan said that he is generally supportive of the task force recommendations and that those that staff takes issue with can be worked through as the process continues. In addition to the primary recommendations, the task force also recommends doing away with the three high school district and combining as one. Mr. Canavan said he was not in favor of this recommendation.

Co-Chairs (Mr. Ford Dean and Mr. Jack Candela) requested holding a joint public hearing (BOCC and the Planning Commission). Mr. Canavan recommends two separate hearings. The BOCC voiced agreement with Mr. Canavan.

Stating the significance of the growth policy document, Commissioner Raley said it should go back through the Planning Commission process and posed the following questions:

1. If the policy is adopted as submitted, and a development comes forward that meets criteria (percentages) but there's still an issue with school seats. -- Will this policy override APF with regards to school seat limitation? Commissioner Raley continued by saying previously Mr. Canavan has said yes (as submitted), however members of the APF task force have said no.
2. Currently, minor sub-divisions (lots of five or less) are not governed by limit for school seats. It is my understanding that if approved as submitted, they would be (under the same limitations as major sub-divisions in regards to school capacity). This needs to be discussed and reviewed in detail.
3. Regarding the possibility of changing three school districts to one, would also like discussion to consider maintaining as three and enable borrowing (development in boarder line).
4. The Planning Commission vote (4-3) to change the percentage levels (elementary, middle, high school) was close; needs to be reviewed and debated.
5. Changes sub-division ordinance, are we governed by the same 120 days (Mr. Canavan responded yes)
6. With regards to school mitigation, internal report task force recommended that it be allowed (to be mitigation for school seats). Then in later correspondence, they said no. That needs to be discussed.

Commissioner Jarboe voiced concern regarding APF spin-off recommendation to increase impact fees (and the impact to smaller homes). Commissioner Jarboe said he is very much against increasing the impact fee and does not support raising taxes.

There was addition discussion regarding the applicability for exemption for those 55 or older and how exemptions (recorded on the record plat) are enforced/managed when the property changes hands.

Commissioner Raley moved, seconded by Commissioner Dement, that with regards to the proposed amendments to the Adequate Public Facility section of the Zoning Ordinance and the proposed amendments to the St. Marys County Sub-division Ordinance, to accept the amendments as proposed for a first reading, waive the 30-day comment period and second reading required by Resolution 2005-03, and ask that the Planning Commission proceed with a public hearing and prepare after the public hearing or hearings a recommendation for the Board of County Commissioners relating to these proposed amendments to the cited documents. Motion carried 5-0.

DEPT. OF LAND USE AND GROWTH MANAGEMENT: DECISION TO REPEAL AND RE-ENACT THE PROPOSED COMPREHENSIVE WATER & SEWER PLAN

Present: Denis Canavan, Director, LU&GM
Jeff Jackman, Sr. Planner, LU&GM

The presentation purpose was to present staffs recommendations following the November 20, 2007 BOCC Public Hearing on the Planning Commissions recommended draft revision to replace the 1993 Comprehensive Water and Sewerage Plan. Mr. Jackman clarified that the CWSP revision incorporates piecemeal amendments over the years since its initial adoption, reconciles with changes in the Comprehensive Plan, brings it up-to-date with recent legislation adopted at the State level, and incorporates Metropolitan Commission latest capital improvement facilities. Mr. Jackman continued describing the structure and content of the Post Hearing Staff Report. It was clarified that the 1/10/08 Post Hearing Staff Report, which refined the Water Policy Task Force input, is 99% the same as the 12/28/2007 Post Hearing Staff Report.

Mr. Canavan suggested, and the Board agreed, to present and review each of the map changes and then the text; clarifying that todays purpose is to obtain Board concurrence and direction for each of the amendments and to come back with a Resolution to finalize (the plan will be sent to the MD Dept. of the Environment for ultimate approval).

Map 32 - including Greenhill, LLC (Chaney Enterprises) Property; and RCL and other properties fronting on Point Lookout Road (shown on a map in Appendix B of the Post Hearing Staff Report)

Staff Recommendations:

- Regarding the Chaney property, which is Parcel 5, about 425 acres, staff recommends a designation of no planned service (NPS).
- Regarding the RCL - zoned properties fronting on Point Lookout Road and parcels 102, 267 and 316, staff recommends NPS. Staff also stated that if the Commissioners are inclined to assign these properties to a category intended to assure access to sewer service, then a designation of RS-D is recommended.
- Regarding the automobile dealership and the carpet store properties, because these businesses are already connected to the Banneker force main, they should be shown as RS-E.
- Regarding Parcel 64, the RS-E is shown in error and staff asked for authorization to correct it to NPS.

Commissioner Mattingly moved, seconded by Commissioner Raley, to approve recommendations noted on Appendix B Sheet 1 Map 32 RCL properties plus selected other properties, in the staff document identifying the RCL properties north of Leonardtown on Rt. 5, to include Parcels 267, 316, 102, be designated as RS-D and to correct the mapping error on Parcel 64 to No Planned Service.

Motion carried 5-0. Commissioner Raley clarified for the 425 acres, go with staff recommendation.

Map 42 including St. Marys Crossing, the Johnson Property and the Beavan Property

Staff Recommendations:

- Retain the service area categories as W-3D and S-3D (Parcel 24A and Parcel 24B - 87 acres); staff further recommends that the BOCC initiate an amendment to the Comprehensive Plan to expand the boundary of the Lexington Park Development District (LPDD) to include these 87 acres.
- Parcel 119 (Beavan) be shown as NPS to be consistent with all surrounding lands west of Indian Bridge Road.

Commissioner Raley moved with regards to Tax Map 42, regarding the properties known as the Johnson Properties A & B, the 87 acres as discussed, that the Board agrees with staff regarding the water and sewer category and agrees with the Planning Commission and staff regarding the Beavan Property. The motion was not seconded.

Commissioner Mattingly moved, seconded by Commissioner Raley, to confirm agreement with staffs report on the property identified as the Johnson Property, Parcels 24A and B, that they be included with the service category as recommended by staff for the 87 acres as noted on the map. Motion carried 3-2 (Commissioners Jarboe and Russell voted no). Commissioner Jarboe noted that the Planning Commission voted 7-0 in opposition to staffs recommendation.

Commissioner Raley moved, seconded by Commissioner Jarboe, that the Board of County Commissioners agrees with the Planning Commission and staff concerning the water and sewer categories for the Beavan Property. Motion carried 4-0, with one abstention (Commissioner Mattingly).

Map 61 including St. George Peninsulas and the Andover Estates Project

Staff Recommendations:

All properties, shown as RS-E, are eligible for public sewer service by way of the Piney Point force main, and no access to this restricted facility is intended for future phases of St. George Peninsulas.

Commissioner Raley noted that he would vote for the motion largely because the five lot sub-division was already recorded.

Commissioner Dement moved, seconded by Commissioner Raley, to approve Map 61 as recommended by staff and the Planning Commission. Motion carried 3-2 (Commissioners Mattingly and Jarboe voted no).

Map 65 including the Landings at Piney Point

Staff Recommendations:

- Staff agrees with the Planning Commissions recommendation that a change to S-6 is indicated for the undeveloped out-lots of the Landings.
- Parcels 212 and 336 were among those that were excluded from the 20-year service area of the Piney Point Facilities Plan, and for this reason, they are classified as NPS I the 1993 CWSP. Staff agrees with the Planning Commissions recommendation to maintain the NPS category.

Commissioner Raley moved, seconded by Commissioner Dement, that the Board of County Commissioners, in agreement with staff and the Planning Commission, to maintain the NPS category for the property contained on Tax Map 65 as just discussed by staff.

Motion carried 5-0.

Comprehensive Water and Sewerage Plan - Text

Based on consideration of the input received from the task force and feedback from the Metropolitan Commission, staff supports changes to the following CWSP sections:

- replace Section 1.9 Recommendation of the Water Policy Task Force as recommended by the task force.
- replace Section 3.1.1 (sub-section pertaining to aquifers)
- retain Sections 3.1.2 and 3.1.3 as recommended by the Planning Commission
- replace Section 3.1.4 (sub-section pertaining to desalinization)
- replace Section 3.2 Water Usage as recommended by the task force
- replace Section 3.3 Well Construction as recommended by the task force
- under Section 3.4 Water Conservation, add a new section (3.4.2) as recommended by the task force. This section references a January 10, 2006 letter to Sen. Dyson requesting the initiation of legislation to make gray water systems and recycled waste water legal and encouraged in Maryland

Commissioner Jarboe moved, seconded by Commissioner Dement, to accept staffs recommendations and revisions regarding Water Policy Task Force concerns.

Motion carried 5-0.

Staff also recommends changes to the following text (October 2007 draft of the CWSP):

- i. Page I-1, change to the third paragraph (regarding proximity to the Washington and Baltimore metropolitan corridor, removing sentence characterizing the County as largely urban and suburban).

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve the text as just described by Mr. Jackman. Motion carried 5-0.

- ii. Page I-8 to the end of Section 1.2.6.A (adding a sentence); i.e., A denial of a waiver by the Director may be appealed to the Board of Appeals.

Commissioner Jarboe moved, seconded by Commissioner Dement, to accept clarification. Motion carried 5-0.

iii. Page I-9 to the end of 1.2.6B (adding a sentence); i.e., A denial of a waiver by the Director may be appealed to the Board of Appeals.

Commissioner Mattingly moved, seconded by Commissioner Raley, to approve clarification. Motion carried 5-0.

iv. Page I-12, Section 1.4.1.B., line 4, following reviews capital improvement programs, add: including those of the Metropolitan Commission.

Commissioner Raley moved, seconded by Commissioner Jarboe, to support text change as cited by staff (as made on page I-12). Motion carried 5-0.

v. Page II-12: insert Table 2-2 (population estimates and projections by sanitary districts 1990 2030).

Commissioner Raley moved, seconded by Commissioner Dement, that Appendix E as cited by staff be approved as submitted. Motion carried 5-0.

vi. Page III-24: Correct the table to indicate that the Breton Bay community well draws from the Patapsco aquifer.

Commissioner Jarboe moved, seconded by Commissioner Dement, to accept the correction as made by staff. Motion carried

vii. Page IV-20: delete final paragraph of section 4.5.10.C.

Commissioner Raley moved, seconded by Commissioner Dement, to agree with staff to eliminate paragraph regarding public funds cited on Section IV-20. Motion carried 5-0.

Commissioner Raley moved, seconded by Commissioner Mattingly, to repeal and re-enact the St. Marys County Comprehensive Water and Sewerage Plan as recommended by the Planning Commission with the modifications individually voted upon this date; and, further to direct staff to prepare a Resolution describing said modifications that will adopt the Comprehensive Water and Sewerage Plan as so modified this date. Motion carried 4-1 (Commissioner Jarboe voted no).

Mr. Jackman stated that once the Resolution is signed and the Comprehensive Water and Sewer Plan is republished, it will be sent to the Maryland Department of Environment (MDE), and then on to various other state departments for review and comment. LUGM already has some MDE comments. If the comments received from the state necessitate changes to the Plan adopted by the BOCC, it will be brought back to the BOCC. Depending on the nature of the change(s), a public hearing may or may not be required.

COMMISSIONERS TIME

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

DEPT. OF PUBLIC WORKS & TRANSPORTATION: DECISION TO ADOPT PROPOSED ORDINANCE ESTABLISHING THE KINGSTON CREEK WATERWAY IMPROVEMENT TAXING DISTRICT #2

Present: George Erichsen, P.E., Director

Mr. Erichsen stated that the BOCC Public Hearing was held on December 18, 2007 and that 85% of the affected property owners are in favor of establishing the taxing district. He continued by stating there has been no negative feedback received, however there is an appeals process in place. Mr. Erichsen reviewed the project scope and maintenance fee arrangement and announced that there will be public hearings in relation to the bid documents and following construction.

Commissioner Raley moved, seconded by Commissioner Dement, to adopt the Ordinance as presented to establish the Kingston Creek Waterway Improvement Taxing District #2. Motion carried 5-0.

MOTION TO ENTER INTO EXECUTIVE SESSION

Commissioner Mattingly moved, seconded by Commissioner Raley, to enter into Executive Session to discuss Personnel, specifically year-end appointments/reappointments to boards, committees and commissions; i.e., Library Board, Board of Appeals, Museum Board resignation, and Nursing Center position; as authorized by Article 24, Section 4-210(a)1. Motion carried 3-2 (Commissioners Dement and Jarboe voted no).

EXECUTIVE SESSION

Personnel

Present: Commissioner Francis Jack Russell, President
Commissioner Kenneth R. Dement
Commissioner Lawrence D. Jarboe
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley
John Savich, County Administrator
Christy Chesser, County Attorney (*end of Board of Appeals discussion only*)
of Denis Canavan, Dir., Land Use and Growth Management (*beginning of BOA discussion only*)
Delores Lacey, Boards/Committees Secretary
Koni Gordon, Asst. Boards/Committees Secretary
Donna Gebicke, Recorder

Authority: Article 24, Section 4-210(a)1
Time Held: 12:33 pm 1:07 pm
Subject Discussed: Boards and Committee Appointments

TOURS OF WORKFORCE HOUSING PROJECTS

The Commissioners visited the following workforce housing project locations:

- Lincoln Military Housing, Columbia Colony
- Hunting Creek LLC Housing (drive-through tour of construction site), 20781 Willows Rd., Lexington Park
- The Gateways, 21155 Lexwood Drive, Lexington Park

PUBLIC HEARING: TO RECEIVE PUBLIC COMMENT RELATIVE TO THE BOARD OF COUNTY COMMISSIONERS CONSIDERATION OF THE ADOPTION OF THE CODE

FORM OF HOME RULE GOVERNMENT - held at the Ridge Volunteer Fire Department, 13820 Point Lookout Road, Ridge, MD

Staff present: Christy Chesser, County Attorney
Sabrina Hecht, Chief of Staff (recorder)
Amy Carter, Videographer

Ms. Chesser provided an overview on how the Code Home Rule form of government compares to the current Commissioner form of government and the procedure for becoming a Code Home Rule form of government. Commissioner President Russell opened the hearing for public comments.

William Howe Grube, Point Lookout Rd., St. Inigoes, MD

What are some of the case studies? Is Code Home Rule more expeditious?
Commissioners responded with examples of legislation that could be passed locally without going through MD House of Delegates legislative process. Commissioner Mattingly reviewed the recommendations of the Form of Government Task Force.

Paul Balta, St. Inigoes, MD

What are the major differences from St. Marys County perspective between Charter and Code Home Rule and which do you think would be better?
Ms. Chesser and the Commissioners responded by highlighting the major differences/similarities, including: powers are similar with both forms; with Charter, there is a clearer separation of legislative and executive roles and citizens are tasked with determining structure of government; with Code Home Rule, structure and number of Commissioners would remain the same, but Commissioners could enact local laws more frequently on a wide array of matters, eliminating the time-consuming process of going through Annapolis.

Jim Grube, Leonardtown, MD

It seems as though Code Home Rule might make your work more efficient.

Regarding cost implications if form of government changed to Code Home Rule, Commissioner Mattingly said that the Board felt there may be some additional costs if Charter was adopted, mostly due to need for additional staffing. Commissioner Raley noted that it was recently learned that under Code Home Rule, the County would be limited to enacting only % transfer tax instead of the current 1%.

Commissioner President Russell announced that the public comment period will be left open for ten days after the last scheduled public hearing on this matter, which is February 5, 2008.

ADJOURNMENT

The hearing was closed and meeting adjourned at 6:59 pm.

Minutes Approved by the Board of County Commissioners on _____

Betty Jean Pasko, Sr. Admin. Coordinator