

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
CHESEAPEAKE BUILDING
Tuesday, May 12, 2009**

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

CALL TO ORDER

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

APPROVAL OF CHECK REGISTER

Commissioner Raley moved, seconded by Commissioner Jarboe, to authorize the Commissioner President to sign the Check Register for checks dated May 12, 2009, as submitted. Motion carried 5-0.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Dement, to adopt the minutes of the Commissioners' meeting of Tuesday, May 5, 2009, as presented. Motion carried 5-0.

PROCLAMATIONS

Proclamations were presented in recognition of the following:

- Emergency Medical Services Week (May 17 – 23, 2009)
- Safe Boating Week (May 16 – 22, 2009)

COUNTY ADMINISTRATOR

1. Draft Agendas for May 19 and 26, 2009
2. **St. Mary's County Health Dept.** (*Anita Stevens, Coord., Infants and Toddlers Prog.*)

Commissioner Jarboe moved, seconded by Commissioner Raley, to sign the Resolution reappointing the St. Mary's County Health Department as the Local Lead Agency for the St. Mary's County Infants and Toddlers Program. Motion carried 5-0.

3. **Dept. of Economic and Community Dev.** (*Bob Schaller, Dir., DECD; Laschelle Miller, Town Administrator, Town of Leonardtown; and Rich Fuller, President of the Southern Maryland Wine Growers Cooperative*)

Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Port of Leonardtown Winery Grant Agreement from Maryland Agriculture and Resource-Based Industry Development Corporation, in the amount of \$25,000; the related budget amendment establishing the budget authority in the Winery Capital Project using FIN09 funds; and the related Sub-recipient Agreement between the County and Town of Leonardtown. Motion carried 5-0.

4. **Dept. of Public Safety** (*Dave Zylak, Director; and Jackie Shaw, Emergency Planner*)

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to direct staff to add the amount of \$71,254 to the FY2010 Budget, and advise the Seventh District Volunteer Fire Department to submit the application, and prior to accepting the award, request verification of funds for the match amount. Motion carried 5-0.

5. **Dept. of Aging** (*Lori Jennings-Harris, Director; and Peggy Maio, Fiscal Supervisor*)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the Revised Notification of Grant Award from the Maryland Department of Aging for FY2009 Title III project funding, and the related budget amendment reflecting the overall increase of \$13,754 in grant revenues and expenses. Motion carried 5-0.

6. **Dept. of Recreation and Parks** (*Phil Rollins, Director*)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the USTA Maryland Grant Application, in the amount of \$7,500, to assist with the installation of tennis court lighting at Dorsey Park. Motion carried 5-0.

(Arthur Shepherd, Recreation Division Mgr.)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the FY2010 Maryland State Department of Education, Summer Food Service Grant Application/Agreement in the amount of \$6,525; and also to sign the Maryland State Department of Education Summer Food Service Program Agreement for the Local Education Agency to Furnish Meals with St. Mary's County Public Schools. Motion carried 5-0.

7. Dept. of Public Works and Transportation (*John Groeger, Deputy Director*)

Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Public Works Agreement Addenda as listed on Mr. Erichsen's May 6, 2009 memo and as outlined on today's agenda as submitted. Motion carried 5-0.

Motion pertains specifically to:

- A. *Public Works Agreement Addendum for Lighthouse Commons Subdivision, Section 2, located in the **2nd Election District** with an Expiration Date of March 1, 2010.*
- B. *Public Works Agreement Amendment for Maryland Rock Industries, Inc. mining operation located in the **3rd Election District** with an Expiration Date of July 1, 2010.*
- C. *Public Works Agreement Addendum for Henderson Farm Subdivision, Phase 1, located in the **5th Election District** with an Expiration Date of May 1, 2010.*
- D. *Public Works Agreement Addendum for Avonlea Subdivision, Section 2, Phase 2, located in the **5th Election District** with an Expiration Date of March 1, 2010.*
- E. *Public Works Agreement Addendum for Avonlea Subdivision, Section 2, Phase 3, located in the **5th Election District** with an Expiration Date of March 1, 2010.*
- F. *Public Works Agreement Addendum for the Addition to Greenbrier Subdivision located in the **8th Election District** with an Expiration Date of May 1, 2010.*
- G. *Public Works Agreement Addendum for Dahlia Park of Wildewood, Phase 2, located in the **8th Election District** with an Expiration Date of June 1, 2010.*
- H. *Public Works Agreement Addendum for Barrister's Landing Subdivision located in the **8th Election District** with an Expiration Date of December 1, 2009.*

COMMISSIONERS' TIME

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

- Commissioner Mattingly said citizens have voiced concern about the length of time (8-9 months) to get Medicaid approved and asked staff to look into what can be done; e.g., encouraging the State to get part-time help.
- Commissioner Jarboe suggested time be allocated at the next Public Forum for Earnshaw Brothers to provide a Nitrogen Removal System presentation.

BOCC APPOINTMENT TO THE SO. MARYLAND AGRICULTURAL DEVELOPMENT COMMISSION

Commissioner Mattingly moved, seconded by Commissioner Dement, to extend the appointment of Commissioner Dan Raley to the Southern Maryland Agricultural Development Commission until such time as Calvert County appoints its new Commission representative. Motion carried 4-0, 1 abstention (Commissioner Raley).

RECESS

The Board recessed at approximately 10:15 AM.

EVENT AND OFF-CAMPUS VISIT

- Beginning at approximately 11:30 AM, the Board attended the Ninth Annual Law Enforcement Appreciation Day, held at the Leonard Hall Recreation Center on the Governmental Center campus.
- At approximately 4:00 PM, the Commissioners visited the Carver Recreation Center, 47382 Lincoln Avenue, Lexington Park. The Commissioners toured the center and received a presentation on the Carver after school program and other activities being offered.

PUBLIC HEARING: LU&GM: PROPOSED AMENDMENTS TO THE TEXT OF THE COMPREHENSIVE ZONING ORDINANCE TO ALLOW DIGITAL SIGNS

Present: Yvonne Chaillet, Planner IV, LU&GM

The public hearing commenced at 6:30 PM and was held in the Chesapeake Building Meeting Room. Ms. Chaillet announced that the public hearing was advertised in the April 24 and May 6, 2009, editions of the Enterprise newspaper and introduced the proposed amendments.

The proposed text amendments affect Chapter 65 "Signs" and Chapter 90 "Definitions" of the Zoning Ordinance.

The Planning Commission (PC) held a public hearing on November 24, 2008. The PC public hearing was continued to and closed on December 8, 2008. After an initial tabling of the text amendments, the Planning Commission held a work session on March 2, 2009. At its meeting on April 13, 2009, the Planning Commission voted unanimously (6-0) in favor of the proposed amendments.

The proposed amendments are in support of one freestanding, on-premise, electronic changeable copy sign for on-premise advertising only. A change recommended by the Planning Commission was to also allow public announcements. Additionally, Section

65.4 “Regulations for Off-Site Advertising Signs” was expanded to include non-profit and civic organizations.

Ms. Chaillet reviewed specific compliance criteria as identified in the proposed amendments.

During Board discussion, there was concern raised regarding enforceability and First Amendment issues; e.g., can political messages be displayed. Ms. Christy Chesser, County Attorney, voiced favor for commercial versus non-commercial messages and said specific verbiage will be drafted to address concerns raised by the Board.

Commissioner President Russell opened the hearing for public comment at 6:47 PM.

Public Testimony

Wayne Abernethy, 29839 Lincoln Rd., Mechanicsville, MD 20659

Mr. Abernethy outlined three specific concerns. The logic and statistics used to support business, such as “estimates are that 15 – 25% more business for those using digital signs” is misinformation. As the use of digital signs increase, businesses will lose competitive edge. Cost of signs will be passed on to the customer. Sign pollution -- don’t want St. Mary’s County to look like Las Vegas. Concern for safety of drivers looking at signs, especially during rush hour. Mr. Abernethy also asked if the proposed amendments have been reviewed by anyone in Emergency Services.

With no one else in attendance requesting to speak, Commissioner President Russell closed the public hearing at 6:55 PM and set the ten-day open record period for anyone wishing to submit written comments relative to the public hearing subject matter.

PUBLIC HEARING: LU&GM: PROPOSED AMENDMENTS TO THE TEXT OF THE COMPREHENSIVE ZONING ORDINANCE TO ALLOW OFF-SITE ADVERTISING FOR THE SALE OF IMPROVED RESIDENTIAL REAL PROPERTY

Present: Yvonne Chaillet, Planner IV, LU&GM

The public hearing commenced at 7:00 PM and was held in the Chesapeake Building Meeting Room. Ms. Chaillet announced that the public hearing was advertised in the April 24 and May 6, 2009, editions of the Enterprise newspaper and introduced the proposed amendments.

The proposed text amendment affects Chapter 65 “Signs,” amending the language of Section 65.2.6.i. “Real Estate Signs” to allow off-site advertising for the sale of improved residential real property. This text amendment allows the homeowner of an improved property and the listing Realtor to post up to three (3) “for sale” signs within a five mile radius of an advertised property. There are currently 983 active listings in the County.

At its April 13, 2009 meeting, the Planning Commission voted in favor (4-2) of the text amendment.

Ms. Chaillet reviewed specific compliance criteria as identified in the proposed amendments. It was noted that there is a sunset provision terminating the text amendment June 30, 2010.

During Board discussion, there was concern raised regarding size of signs and enforceability.

Commissioner President Russell opened the hearing for public comment at 7:13 PM.

Public Testimony

Alan Hewitt, 22896 Piney Wood Circle, California, MD (Representing a group of realtors in attendance.) Mr. Hewitt provided testimony in support of the amendment. Mr. Hewitt said the amendment helps homeowners with selling, considering the economy and time on the market and those facing foreclosure. Mr. Hewitt acknowledged staff support and highlighted negotiated changes. He said the directional signs are not for homes on major roads, such as Rts. 5 and 235, but are needed for homes on small roads. Mr. Hewitt clarified that “open house” signs will still be needed and are currently addressed by the Ordinance.

Wayne Abernethy, 29839 Lincoln Rd., Mechanicsville, MD 20659

Describing the proposed amendment as promoting “sign pollution.” Mr. Abernethy provided testimony against the amendment. Referring to figures provided in the Planning Commission’s April 19, 2009 document, there are 898 properties on the market; 898 x 3 additional signs = 2,694 signs. Mr. Abernethy noted homes are typically on the market for 140 days. If the average home sale is \$300,000 and commission is 6%, realtors will make \$18,000 per sale.

Mr. Abernethy said he had no problem locating homes randomly selected using the internet and a map. He said he feels the amendment is trying to fix a problem that doesn’t exist. He also voiced concern for costs relative to monitoring and enforcement, which will ultimately be borne by the taxpayers.

Susan Gleckel, 24251 N. Patuxent Beach Rd., California, MD

Ms. Gleckel voiced concern about the proposed amendment. She asked for clarification about the type and number of signs permitted. She attributed home sales to an improved economy, not additional signs. Ms. Gleckel voiced concern about sign proliferation and requested stronger limitations and restrictions relative to size and timelines.

Paula Martino, 844 Old Leonardtown Rd., Hughesville, MD (Government Affairs Director, Southern MD Association of Realtors) Ms. Martino provided testimony in support of the proposed amendment and responded to issues raised relative to the potential number of signs. Ms. Martino

said the market could never be better for those looking to buy. She emphasized realtors are trained professionals and will uphold the ordinance. Agents determine need and use of off-site directional signs and don't want to clutter the highways.

Noel "Tim" Wood, Tall Timbers, MD (President-elect, Southern MD Association of Realtors) Mr. Wood provided testimony in support of the amendment and emphasized a strong commitment to self-regulating the use of signs. The cost of a typical 1.5' x 1.5 or 2' sign is \$8 - \$10, which is paid by the individual realtor agent.

With no one else in attendance requesting to speak, Commissioner President Russell closed the public hearing for public testimony at 7:35 PM

Commissioner Raley requested clarification on Mr. David Weiskopf's March 13, 2009, memo to the Planning Commission relative to distinctions between different types of commercial and non-commercial messages being generally held to be unconstitutional, content-based restrictions. Mr. Weiskopf, Deputy County Attorney, responded that there is concern for real estate signs being treated differently than others. He said some jurisdictions treat all temporary signs the same, regardless of type.

Commissioner President Russell closed the public hearing at 7:40 PM and set the ten day open record period for anyone wishing to submit written comments relative to the public hearing subject matter.

ADJOURN

Commissioner Dement moved, seconded by Commissioner Mattingly, to adjourn the Board of County Commissioners meeting of May 12, 2009. Motion carried 5-0.

Minutes Approved by the Board of County Commissioners on _____

Betty Jean Pasko, Sr. Admin. Coordinator (Recorder)