

**ST. MARYS COUNTY
BOARD OF COUNTY COMMISSIONERS MEETING
GOVERNMENTAL CENTER
Tuesday, July 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 9:05 am.

CHANGES TO AGENDA

Commissioner Russell requested that an Executive Session be added to the agenda.

Commissioner Raley moved, seconded by Commissioner Jarboe, to add an Executive Session to the agenda to discuss a litigation matter, specifically Truitt vs. Zimmer; and a Real Property matter, specifically, a public facilities site. Motion carried 5-0.

APPROVAL OF CHECK REGISTER

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

APPROVAL OF MINUTES

Commissioner Jarboe requested that the July 1, 2008, minutes be amended to specifically identify that Commissioner Mattingly amended the motion made by Commissioner Dement relative to the States Attorney funding request; i.e., adding action to sign the Budget Amendment.

Commissioner Jarboe moved, seconded by Commissioner Dement, to adopt the minutes of the Commissioners meeting of July 1, 2008, as amended. Motion carried 5-0.

Commissioner Jarboe moved, seconded by Commissioner Dement, to amend the minutes of June 24, 2008, previously adopted on July 1, 2008, to correct the Board of Educations FY 2009 Budget Restricted Fund amount to read \$9,145,735 and to

sign the corrected letter to the Board of Education approving the Board of Educations FY 2009 Budget. Motion carried 5-0.

PROCLAMATION: MARYLAND BUY LOCAL CHALLENGE WEEK

Present: Dr. Christine Bergmark, Exec. Dir., So. MD Agricultural Dev. Commission
Donna Sasscer, Agriculture and Seafood Manager, DECD

The Commissioners presented a proclamation recognizing July 19 through 27 as Maryland *Buy Local* Challenge Week.

COUNTY ADMINISTRATOR

1. Draft Agendas for July 22 and 29, 2008
2. **St. Marys County Public Schools** (*Brad Clements, Chief Operating Officer*)

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President Russell to sign the Budget Amendment transferring \$26,238 from the Great Mills High School gymnasium floor replacement project to the Bethune Educational Center roof replacement project, as approved by the Board of Education of St. Marys County on June 25, 2008. Motion carried 5-0.

3. **Office of the County Attorney and St. Marys County Health Department** (*Christy Holt-Chesser, County Attorney; Karen Russell, St. Marys Co. Health Dept.*)

Commissioner Raley moved, seconded by Commissioner Mattingly, to approve and sign the Resolution Establishing the Tobacco Sales to Minors Municipal Infraction Citation Program, effective July 15, 2008, with the understanding that the County Attorney will report back within one year on the number of cases at which time the Board of County Commissioners will determine whether to continue the program. Motion carried 5-0.

4. **Recreation, Parks and Community Services** (*Phil Rollins, Director*)

(*Liz Passarelli, Real Property Manager*)

a. and b.

Commissioner Mattingly abstained from discussion of this matter.

At the request of Commissioner Raley, the Contract of Purchase and Sale for the acquisition of land in the California area for a new County park and the Maryland Department of Natural Resources, Program Open Space, Acquisition Application and Project Agreement, were tabled until next week to resolve questions regarding perc tests and recording of same.

4c. and d.

Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President Russell to sign the Cooperative Agreement between St. Marys County and the National Park Service, and related assurance and certification documents, for the Chesapeake Bay Gateways funding in the total amount of \$43,500, and to approve and authorize the Commissioner President to sign the related Budget Amendment, increasing the Piney Point Lighthouse Expansion Project budget by \$812, in accordance with the actual grant award. Motion carried 5-0.

- 5. Dept. of Economic and Community Development** (*Bob Schaller, Director; Hans Welch, Mgr., Business Development*)

Commissioner Jarboe moved, seconded by Commissioner Mattingly, to authorize staff to schedule a public hearing on the proposed amendment to the Waiver or Deferral of Building Impact Fees outlined in Chapter 223 of the Code of Public Local Laws of St. Marys County, Maryland. Motion carried 5-0.

- 6. Dept. of Public Works and Transportation** (*John Groeger, Zane Rettstatt*)

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner President Russell to sign the DNR Waterway Improvement Fund Grant Application for FY2010, in the amount of \$270,250, to fund the non-Federal cost share for the US Army Corps of Engineers St. Jerome Creek jetty feasibility study and to sign the letter of interest to the Army Corps of Engineers making formal application for a study of St. Jerome Creek. Motion carried 5-0.

- 7. Public Safety Department** (*David Zylak, Director*)

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to authorize the Public Safety Director to submit the application for the Interoperable Emergency Communications grant, in the amount of \$103,500, without prior review by the County Commissioners, but only after review by Finance and Legal, and approval by the County Administrator. Motion carried 5-0.

MOTION TO ENTER INTO EXECUTIVE SESSION

Commissioner Mattingly moved, seconded by Commissioner Raley, to enter into Executive Session for the purpose of discussing litigation matter, specifically *Truitt vs. Zimmer*; and Real Property, specifically public facilities site. Motion carried 5-0.

EXECUTIVE SESSION

Litigation

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
David Weiskopf, Deputy County Attorney
Phil Shire, Deputy Director, Land Use & Growth Management
Donna Gebicke, Recorder

Authority: Article 24, Section 4-210(a)8
Time Held: 10:12 am - 10:25 am
Subject Discussed: Truitt vs. Zimmer Litigation

Real Property

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
Sabrina Hecht, Chief of Staff
Christy Chesser, County Attorney
Liz Passarelli, Real Property Manager
Donna Gebicke, Recorder

Authority: Article 24, Section 4-210(a)11
Time Held: 10:25 am 10:32 am
Subject Discussed: Potential parkland acquisitions.

ACTION FROM EXECUTIVE SESSION (Motion taken in open session)

**Commissioner Raley moved, seconded by Commissioner Mattingly, to direct staff to proceed as discussed in Executive Session on matters of litigation and real property, specifically, a potential public facilities site.
Motion carried 5-0.**

**DEPARTMENT OF LAND USE AND GROWTH MANAGEMENT: DECISION
ON PROPOSED
AMENDMENT TO THE ST. MARYS COUNTY COMPREHENSIVE PLAN RE
JOHNSON PROPERTY, TAX MAP 42, P/O PARCEL 24, PARCELS A AND B**

Present: Denis Canavan, Director
Jeff Jackman, Senior Planner

Mr. Jackman noted for the record that a public hearing on a proposed Amendment to the St. Marys County Comprehensive Plan to include the Johnson property in the Lexington Park Development District was conducted on June 24, 2008. No comments were received during the open record period. At the public hearing, testimony was given by Mr. Victor Johnson and John Norris, Jr., in support of the proposed Amendment. Mr. Johnson also provided written comments at the hearing supporting the amendment.

The proposed Amendment is in response to a recommendation from the Planning Commission and in recognition of the need for reconciling differences between the Comprehensive Water and Sewerage Plan, the Zoning Ordinance, and the Comprehensive Plan (amended November 1, 2005).

Subject property is zoned RL Low Density Residential as a result of the comprehensive rezoning of May 2002. It is planned for water service within 3 to 5 years and for sewerage service within 3-5 years as a result of the 2005 amendment to the CWSP. But, it is planned for rural preservation according to the Comprehensive Plans of 1988, 1999, and 2002.

Commissioner Mattingly moved, seconded by Commissioner Raley, having received a recommendation from the Planning Commission to amend the Lexington Park Development District Master Plan, and having conducted a public hearing on this matter, to amend figures 2-1 through 2-5 of the Lexington Park Development District Master Plan to change the boundary of the Lexington Park Development District to include therein approximately 87 acres described as tax map 42, p/o Parcel 24, Parcels A and B, which acres are generally known as the Johnson Property. Motion carried 4-1. Commissioner Jarboe voted nay.

Commissioner Raley noted that although this property is part of a PUD application currently moving through the process, his vote today to include this property in the Lexington Park Development District in no way signifies what his feelings might be on the PUD application should it make it to the Commissioners table for a decision.

Commissioner Jarboe noted that he believes the County should take responsibility for errors made regarding this property by downsizing the development district (such as reducing Myrtle Park area).

COMMISSIONERS TIME

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

Commissioner Raley noted that as a result of a new state law that was effective on July 1, 2008, the states Critical Area Commission now has 30 days to appeal Board of Appeals decisions on critical area matters. This 30 days is in addition to the 60 days that the Board of Appeals has to sign their orders. This means that even though the Board of Appeals may decide in favor of a citizens appeal or request for a variance, a final order does not have to be written until 90 days after the decision is taken. Believing that this is an inordinate amount of time for a citizen to receive a final determination, Commissioner Raley asked Mr. Canavan to prepare a text amendment for the Boards consideration (and eventual Planning Commission review and recommendation) to provide for a reduction in time from 60 days to 30 days that the Board of Appeals has to sign orders on their decisions pertaining to Critical Area matters.

Commissioner Jarboe asked Mr. Canavan, Director of Land Use and Growth Management, about the status of a draft text amendment to provide for wind turbines. Mr. Canavan responded that his staff is currently drafting the text amendment which he will then review and bring forward to the Commissioners for their consideration. The (maximum) 125-day legislative timeframe begins from the date the proposed text amendment is introduced to the Board. Commissioner Jarboe stressed the urgency of becoming energy independent -- both locally and nationally -- due to the current dynamics in the Middle East. Carroll County and New Jersey have drafted wind turbine legislation. Commissioner Jarboe also asked that monthly public forums be scheduled once again. The County Administrator will propose a schedule to the Commissioner President once the extensive amount of evening public hearings are concluded.

JOINT MEETING - BOCC AND BOARD OF EDUCATION: HELD AT THE AVENMAR COMMUNITY CENTER, LEONARDTOWN, MD

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
Elaine Kramer, Chief Financial Officer
Denis Canavan, Director, Land Use and Growth Management
Karen Everett, Public Information Officer
Donna Gebicke, Recorder
Board of Education Vice Chair Cathy Allen
Board of Education Member Dr. Sal Raspa
Board of Education Member Mary Washington
Board of Education Member Gary Kessler

Dr. Michael Martirano, Superintendent, SMCPS
Bradley Clements, COO, SMCPS
Daniel Carney, CFO, SMCPS
Zina McGowan, PIO, SMCPS

Dr. Martirano and his staff provided updates on the following projects: Middle School Assessments; graduation rates, Fairlead Academy, Young Drivers Safety Initiative; volunteer screenings, and Evergreen Elementary.

Both boards agreed that the continuing increases in energy costs must be addressed as quickly and effectively as possible. It was agreed to convene a work group of County and SMCPS transportation and facilities staff tasked with putting together a set of recommendations to both boards on how to collectively reduce energy costs.

Ms. Kramer provided a three-year budget outlook. Sharing early, revenue and expense projections and reviewing current trend data as early as possible provides the opportunity to look at realistic budget ranges and to make informed decisions at the initial budget preparation stages. The challenge of balancing important program needs with limited funding sources in these difficult economic times was recognized by both boards.

LIBRARY BOARD RECOGNITION EVENT

The Commissioners attended the St. Marys County Library Board recognition event at the Leonardtown Library.

PUBLIC HEARING: PROPOSAL TO ALLOW A PROPERTY TAX CREDIT FOR THE INSTALLATION OF CERTAIN FIRE PROTECTION RESIDENTIAL SPRINKLER SYSTEMS

Present: Christy Holt-Chesser, County Attorney

Commissioner Lawrence Jarboe was unable to attend the hearing. Ms. Chesser noted for the record that the public hearing was advertised in The Enterprise newspaper on June 18 and June 25, 2008. The purpose of the public hearing was to receive public comment on a proposal to allow a Property Tax Credit for the installation of certain fire protection residential sprinkler systems.

Ms. Chesser provided background on the proposal. On November 15, 2007, the Board adopted Ordinance 2007-12 which requires the installation of residential sprinklers in all new one- and two-family residential units served by centralized public water systems or shared water systems. This Ordinance further provided that homeowners not subject to the Ordinance who voluntarily install a sprinkler system and homeowners that retrofit their existing homes by installing a sprinkler system may receive a property tax credit as determined by the Board under a separate ordinance. Two draft ordinances to establish property tax credits for residential sprinkler systems were presented to the Board on June 3, 2008, and the Board directed that a public hearing be scheduled to consider and take

testimony on the proposal to allow a tax credit.

The draft Ordinance to be considered provides that a taxpayer may receive a one-time property tax credit for the installation of a fire sprinkler system in a single family dwelling if said system is installed on or from February 1, 2008, through February 1, 2011. The amount of the proposed tax credit for a new, single family dwelling is \$1,500, and the amount of the proposed tax credit for homeowners who retrofit an existing dwelling is \$2,000. Additionally, the amount of either tax credit may not exceed the amount of the net County property tax paid by the qualifying tax payer.

A draft request for budget amendment was prepared by the Department of Finance and included for review by the Board. The draft budget amendment estimates that in Fiscal Year 2009, the budget impact of the adoption of the draft Ordinance will be \$343,000, and which proposes, should the Ordinance be adopted, that the budget be amended to move \$343,000 from the Commissioners Reserve to cover these costs.

There were no citizens present wishing to speak to the matter. It was noted that the written comment period will be kept open for ten days. The hearing was closed and the meeting adjourned at 6:40 p.m.

Minutes Approved by the Board of County Commissioners on _____

Betty Jean Pasko, Sr. Admin. Coordinator