

**ST. MARYS COUNTY  
BOARD OF COUNTY COMMISSIONERS MEETING  
CHESEAPEAKE BUILDING  
Tuesday, September 16, 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)  
Jada Stuckert, Sr. Administrative Coordinator (Public Hearing Recorder)

**CALL TO ORDER**

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

**ADDITION TO AGENDA**

**Commissioner Jarboe moved, seconded by Commissioner Dement, to add an Executive Session to the agenda for the purposes of discussing a litigation matter. 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 September 16, 2008, as submitted. Motion carried 5-0.**

**APPROVAL OF MINUTES**

Commissioner Russell announced that the Minutes of the meeting of September 9, 2008, which include the minutes of the public hearing, will be presented for adoption on September 23, 2008.

**INVITATION TO ST. MARYS COUNTY FAIR**

Present: John Richards, Chair, St. Marys County Fair Board

The St. Marys County Fair will open Thursday, September 18, 2008 and run through Sunday, September 21, 2008.

## **COMMENDATIONS: CIVILIAN FIRE OFFICER OF THE YEAR FOR THE DEPT. OF THE NAVY**

Charles (C.P.) Miedzinski was presented commendations by the Commissioners and, on behalf of the Governor, by Delegate Johnnie Wood, for being named Civilian Fire Officer of the Year for the Dept. of the Navy.

## **PROCLAMATION: PROSTATE CANCER AWARENESS MONTH**

A proclamation was presented to Karen Russell, Wellness and Health Promotion Program Manager, declaring September 2008 as Prostate Cancer Awareness Month in St. Marys County.

## **COUNTY ADMINISTRATOR**

1. Draft Agendas for Sept. 23 and 30, 2008
2. **Dept. of Public Works and Transportation** (*George Erichsen, P.E., Director*)

**Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Easement with the Southern Maryland Electric Cooperative, Inc. for work associated with the installation of a transformer pad for service to the new and old Navy Museums and new parking lot lighting. Motion carried 5-0.**

3. **Dept. of Land Use and Growth Mgmt.** (*Sue Veith, Environmental Planner; Denis Canavan, Director*)

**Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President Russell to sign the FY2009 grant agreement with the Critical Area Commission. Motion carried 5-0.**

**Commissioner Mattingly moved, seconded by Commissioner Raley, to sign the budget amendment related to the Critical Area Commission Grant, which will reduce the grant funding by \$10,000 in accordance with the grant agreement and which will increase the Countys portion by \$10,000 using the Emergency Appropriation Reserve, rather than reduce position costs. Motion failed 1-4. (Commissioners Raley, Jarboe, Dement, and Mattingly voted against the motion).**

*Concern was voiced with the precedent of using the BOCC Emergency Reserve to offset State funding cuts/reductions (because there will potentially be more to follow). However, the funding is needed to support staff costs to perform work that is mandated by State law. Mr. Canavan was tasked with determining if funding can be provided from his department.*

4. **Dept. of Human Services** (*Bennett Connelly, Director; Cynthia Brown, Div. Mgr., Community Services*)

**Commissioner Raley moved, seconded by Commissioner Jarboe, to approve the Corporation for National and Community Service (CNCS) AmeriCorps\*VISTA Project application and authorize staff to submit the application electronically through the AmeriCorps\*VISTA E-Grant system; and to approve and authorize the Commissioner President the sign the budget amendment which will realign the budget to the actual application by decreasing County funding by \$4,168 and establishing \$34,164 as both a revenue and expense for the three non-county Vista positions. Motion carried 5-0.**

5. **Dept. of Aging** (*Deborah Barker, Senior I&A Mgr.*)

**Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize Commissioner President Russell to sign the Department of Aging Notification of Grant Award (NGA), in the amount of \$4,684, for the Senior Health Insurance Program (SHIP), and to sign the related budget amendment to set-up the FY09 grant project budget in accordance with the NGA. Motion carried 5-0.**

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

**Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President Russell to sign the Program Open Space Development Application and Project Agreement for Phase V of the Three Notch Trail in the amount of \$101,408. Motion carried 5-0.**

**Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize Commissioner President Russell to sign the FY09 Maryland Historic Trust Preservation Grant Agreement and related assurances, in the total amount of \$25,000, to assist with the replacement of the Piney Point Lighthouse Keepers Quarters roof and other related repairs. Motion carried 5-0**

7. **Dept. of Economic and Community Development** (*Bob Schaller, Director; Cynthia DellaGatta, Economic Dev. Coordinator*)

**Commissioner Mattingly moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the budget amendment in the amount of \$15,000, increasing the House Keys Operation Allocation and decreasing the BOCC Emergency Appropriations. Motion carried 5-0.**

**COMMISSIONERS TIME**

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

## **MOTION TO ENTER INTO EXECUTIVE SESSION**

**Commissioner Raley moved, seconded by Commissioner Mattingly, to enter into Executive Session for the purpose of discussing a Litigation matter.  
Motion carried 5-0.**

### 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  
George Erichsen, Director, Public Works and Transportation  
Denis Canavan, Director, Land Use and Growth Management  
Donna Gebicke, Recorder

Authority: Article 24, Section 4-210(a)8  
Time Held: 10:37 am 11:04 am  
Subject Discussed: Litigation matter.

## **EVENT**

The Commissioners attended the State of the County Luncheon, at the J.T. Daugherty Conference Center in Lexington Park. The event was hosted by the St. Marys County Chamber of Commerce.

## **PUBLIC HEARINGS CONTINUED FROM SEPTEMBER 9, 2008**

- 1. REZONING FOR ST. MARYS CROSSING PROPOSED PLANNED UNIT DEVELOPMENT (PUD); AND**
- 2. DEVELOPERS RIGHTS AND RESPONSIBILITIES AGREEMENT (DRARA) FOR ST. MARYS CROSSING PLANNED UNIT DEVELOPMENT**

The public hearings commenced at 6:30 pm and were held in the meeting room at the Chesapeake Building, 41770 Baldrige St., Gov. Center Campus.

This portion of the minutes taken by Jada Stuckert.

All Commissioners were present. LUGM staff present was Denis Canavan, Director; Jeff Jackman, Senior Planner; Bob Bowles, Planner IV; and Jada Stuckert, Recording Secretary. County Attorney Christy Holt-Chesser and Deputy County Attorney David Weiskopf were also present, as was Brad Clements, Public Schools Chief Operating Officer and John Groeger, Department of Public Works and Transportation Deputy Director.

### **PLANNED UNIT DEVELOPMENT #06-145-004, St. Marys Crossing PUD**

Mr. John Norris III reviewed the twenty-two conditions set forth by the Planning Commission giving the following comments on each.

1. Signal Light When Warranted: Mr. Norris stated the Ordinance currently requires this condition therefore it is not necessary to include it within the conditions.
2. MD 4 Accell/Decell Lanes: Mr. Norris stated the PUD already includes a left hand turn lane.
3. 50 Right-of-Way Upgrade: Mr. Norris stated prior to the final 320 units this right of way will be tilled and seeded for the school site. Mr. Norris stated if this condition remains the right of way will only be used for three years. Commissioner Raley clarified the access points by amount of units being built. Commissioner Raley stated up to 75 units the main entrance will be used, 76 to 350 units Hunt Club Road and Johnson Pond road will be used and anything over 350 units the 60 foot right of way will be used and the Johnson Pond Road, past the well site, use will cease. Mr. Norris stated yes. Commissioner Raley asked if the Commissioners could impose a condition to require a signal light prior to one unit being built or a round about. Mr. Canavan stated this is a condition the Commissioners could impose as traffic is of major concern. Commissioner Raley asked if the State Highway Administration (SHA) has warrant requirements for a round about like they do for traffic lights. Mr. Canavan stated they do however they are less rigorous. Mr. Norris stated SHA would require a two lane round about which would not solve the traffic issue and would be a very short term and expensive fix. Commissioner Mattingly asked what the line of sight was for St. Andrews Church Road. Mr. John Groeger stated he has not measured this however the intersection sight distance is approximately 700 feet.
4. Old St. Andrews Church Road Made Public: Mr. Norris stated the owner would rather leave this private. Commissioner Raley asked the condition of this road in its current state. Mr. Groeger stated he will return to the work session with this information. Commissioner Raley also requested information pertaining to the condition and sight-distance of its intersection with Route 4. Mr. Canavan stated staff would rather this road be made public.
5. Pertaining to #4 Bonds: Mr. Norris stated the owner has no issue with constructing the road as specified, the issue is making the road public. Mr. Canavan stated this condition is if the phasing is not on track to insure safe vehicular access. Commissioner Raley asked if the second access is necessary. Mr. Canavan stated yes, after the 75<sup>th</sup> permit.

6. Approvals for Grading Permit: Mr. Norris stated this is an existing regulation in the Ordinance and repeating it as a condition could create confusion. Mr. Canavan disagreed stating all issues of concern should be addressed as conditions now.
7. Extend Water & Sewer: Mr. Norris stated this is already written into the PUD. Mr. Canavan stated the condition ensures the extension is completed. Commissioner Mattingly agreed with the condition and staff stating we need to ensure others can tie into the water and sewerage.
8. Deed & Dedicate 75 foot Frontage on Route 4: Mr. Norris stated there are no objections to this condition.
9. SHA Approval of Access Roads: Mr. Norris stated State law already requires this. Mr. Canavan stated he believes the condition is necessary.
10. Approval of Intersection Improvements: Mr. Norris stated if this condition is required for the secondary access points it will reduce the mitigation fees to widen St. Andrews Church Road and could affect housing costs.
11. Architectural Renderings: Mr. Norris stated this condition limits the ability and asked that the condition be amended to state 20% of the architectural renderings be maintained. Mr. Canavan stated this condition allows us to lock in design standards now and agreed the condition could be amended however the percentage would be more than 20%.
12. Disclosure of Landfill: Mr. Norris objected to this condition stating it give off a negative connotation of the homes in the subdivision. Mr. Canavan argued this just gives potential purchasers or renters fair notice of surrounding land uses.
13. Phasing Plan: Mr. Norris stated this condition needs to be clarified in case phase one does not happen until the second year. Commissioner Mattingly stated if this was the case that would be 368 units in one year. Commissioner President Russell asked if phase one was limited to only 85 units how would the phasing plan change. Commissioner Mattingly asked if the phasing plan could be changed. Mr. Canavan stated the Commissioners have the authority to change the phasing plan to make it longer.
14. Stormwater Management Regulations: Mr. Norris stated this condition is duplicative and if kept Chapter 1 of the PUD will need to be corrected to adhere to the regulations current at the time. Mr. Canavan stated Chapter 1 of the plan should be corrected and this condition should remain.
15. Retrofit Pond: Commissioner President asked if the pond has ever overflowed. Mr. Norris stated he was unsure, Mr. Canavan stated this condition is necessary.
16. Recreation Facility Schedule: Mr. Norris stated the PUD already reflects the amenities and there is no need for a schedule. Commissioner Mattingly stated the plan calls for 400 units prior to the construction of the community center. Mr. Norris stated there is no need to raise prices for the 400 units to pay for the community center. Mr. Canavan stated he would like to see the number supporting Mr. Norris's claim and recommended the condition remain.
17. Deed & Dedicate 26 Acre School Site: Mr. Norris stated the owner has a contract with the Board of Education and stated the condition is not necessary. Mr. Canavan recommended keeping the condition.
18. \$3,535.00 Traffic Mitigation: Mr. Norris recommended the \$2,028.00 per dwelling for traffic mitigation. Commissioner Raley confirmed Mr. Norris objects

to the amount and the time the fee would be paid. Mr. Canavan stated the fee should be paid prior to the building permit and recommended the condition remain.

19. 150 Workforce Housing: Mr. Norris stated there will be 868 workforce housing units and stated the owner has no objection to this condition. Mr. Canavan recommended the condition remain.
20. Annual Report: Mr. Norris stated this condition is unclear at what point we should return for updates. Mr. Canavan stated this condition could use further discussion for clarification.
21. Phase A Complete prior to Phase B: Mr. Norris asked that the condition be revised to allow prep on phase B. Mr. Canavan stated staff agrees with re-wording of this condition.
22. 3 Years No Development: Mr. Norris stated there is no objection to this condition however it is an anomaly of the laws of zoning.

Commissioner Raley asked if the Planning Commission discussed these conditions in detail during their review stating he does not understand their reasoning for denial. Mr. Canavan stated the Planning Commission had the conditions for review however they did not review them extensively. Mr. Canavan stated the Planning Commission decided the PUD was not compatible with the applicable requirements of a PUD.

Commissioner President Russell re-opened the public hearing to public testimony for comments regarding the 22 conditions only. Ms. Eileen Hislop questioned an evacuating plan considering we live across the river from a nuclear power plant and the Pax River testing center. Ms. Hislop stated in the worst case scenario how we evacuate the 868 houses with only two access points.

Ms. Mary Broadhurst stated the County Landfill is not the only environmental hazard close by; there is also the old drum site where contaminated soil has been removed. Ms. Broadhurst stated the entire area is environmentally sensitive. Ms. Broadhurst stated originally there were only 718 units proposed then Mr. Canavan asked for at least 150 workforce housing units and now we have 868 units. Ms. Broadhurst asked why workforce housing is even being proposed in this area.

Mr. Michael Barnes submitted a six page packet of information to the Commissioners dated 9/16/08 stating his deed stated the road cannot be dedicated to this project. Commissioner Raley asked if the 60 foot right of way was deeded and dedicated to the County if Mr. Barnes would object to the project. Mr. Barnes stated no, as long as he is fairly compensated for his portion of the right of way.

Ms. Falcia Whitburn stated she has the same concerns regarding the 60 foot right of way. Ms. Whitburn stated she will not sign the road maintenance agreement and recommended the road be turned over to the County. Commissioner Raley asked if the 60 foot right of way was deeded and dedicated to the County if Mr. Barnes would object to the project. Ms. Whitburn stated no, as she agrees with her father on the issue.

Commissioner President Russell set aside the public hearing for the PUD.

**DEVELOPERS RIGHTS AND RESPONSIBILITIES AGREEMENT #07-146-001,  
St. Marys Crossing DRARA**

**Legal Description**

(Zoning Ordinance 02-01) (Subdivision Ordinance # 02-02)

Owner: St. Marys Crossing, LLC Agent: NG&O Engineering, Inc.

Zoning: RL, AE Acreage: 249.48

ACTION REQUESTED: Review and recommendation of a Development Rights and Responsibilities Agreement (DRARA), per Section 29.0 of the Comprehensive Zoning Ordinance, #02-01. This public hearing has been duly advertised in *The Enterprise*, a newspaper of general circulation in St. Marys County, on August 22 and August 29, 2008.

John Norris III gave a PowerPoint presentation containing the following information. The computed effect of the St. Marys Crossing Planned Unit Development is a 15% increase in east-bound traffic on St. Andrews Church Road upon complete build out and 2% on west-bound traffic. Section 70.7.2.a of the Ordinance states, Service levels shall be met from the first points of egress from and ingress to the proposed development and include the intersection with the first County or State collector or arterial road or State road in all directions from the development Therefore, adequacy of St. Andrews Church Road is tested east-bound from Hunt Club Road to Wildewood Parkway and west-bound from Hunt Club Road to Indian Bridge Road. The traffic study shows that background traffic volumes exceed existing lane capacity with or without additional traffic from St. Marys Crossing and will operate at unacceptable levels of service with or without the development. The Ordinance allows the owner to pay a fee in lieu of providing an improvement to the intersections or roads. The owner has offered mitigation measures to address the inadequacy of public roads by participating in the cost of a traffic signal at the intersection of St. Andrews Church Road and Wildewood Parkway. Dedicating a 75 foot wide parcel of land for future widening of St. Andrews Church Road, dedicating the additional right-of-way acquired by the owner for the widening of St. Andrews Church Road, and by paying a mitigation fee of \$2,002.28 per dwelling unit to the County prior to building permit issuance. The \$2008.28 is based on the recommendation of staff and the Planning Commission

Commissioner President Russell asked what the value of the school site is to the developer is it were to be developed with residential uses. Mr. Norris stated he will have this information available at the next meeting. Commissioner President Russell asked what the estimated cost of purchasing 619 TDRs would be or in the alternative what the estimated cost is of paid as a fee in lieu. Mr. Norris stated he will have this information available at the next meeting. Commissioner Raley asked why the owner does not want to purchase TDRs. Mr. Norris explained the PUD process addresses the same goals as the TDR process. Commissioner Raley asked for the opinion of staff. Mr. Canavan stated with a PUD you should take into consideration the value of the infrastructure and the

school site. Commissioner Raley asked if the Commissioners so wish to require TDRs be purchased, is there criteria to follow. Mr. Canavan stated there is not.

Commissioner Raley asked how the acreage for the school site was agreed upon. Mr. Norris stated there was a series of negotiations with the Board of Education and he could provide this documentation at the next meeting. Mr. Bowles read the staff report into the record which recommended approval of the DRARA.

Commissioner President Russell re-opened the public hearing for public testimony.

Ms. Mary Ruth-Horton stated she does not understand the purpose of the DRARA and asked if it could be written in plain terms for the general public. Ms. Horton stated the dollar amount agreed upon is not sufficient for the improvements needed. MS. Horton asked what guarantee does the public have that the mitigation fees will even be used for the traffic mitigation.

**Commissioner Mattingly made a motion in the matter of DRARA #07-146-001, St. Marys Crossing DRARA and PUD #06-145-004, St. Marys Crossing PUD be continued to October 7, 2008 at 12:30 p.m. in the Commissioners Meeting Room of the Chesapeake Building to continue the public hearing for applicants rebuttle and public testimony on the DRARA and for a work session and Commissioner Jarboe seconded. Commissioner Raley asked that an advertisement be ran in the paper for these items. Mr. Canavan stated he would take care of this advertisement. The motion passed by a 5-0 vote.**

**Adjournment:** The meeting was adjourned at 9:50 p.m.

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

Betty Jean Pasko, Sr. Admin. Coordinator (Recorder)	Jada Stuckert, Sr. Admin. Coordinator (Public Hearing Recorder)