

**ST. MARYS COUNTY  
BOARD OF COUNTY COMMISSIONERS MEETING  
CHESEAPEAKE BUILDING  
Tuesday, October 7, 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. Admin. Coord. (Public Hearing and Work Session Recorder)

**CALL TO ORDER**

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

**APPROVAL OF CHECK REGISTER**

**Commissioner Mattingly moved, seconded by Commissioner Jarboe, to authorize the Commissioner President to sign the Check Register for checks dated October 7, 2008, as submitted. Motion carried 5-0.**

**APPROVAL OF MINUTES**

**Commissioner Mattingly moved, seconded by Commissioner Dement, to adopt the minutes of the Commissioners meeting of September 30, 2008, as presented. Motion carried 5-0.**

**INVITATION TO SOUTHERN MARYLAND FARM LIFE FESTIVAL**

Present: John K. Parlett, Jr.  
Mary Ann Chasen, Christmas in April

Joined by Bob Schaller, Director, DECD, and Carolyn Laray, Tourism Mgr., the presenters invited the Commissioners and the public to the 11<sup>th</sup> annual Southern Maryland Farm Life Festival, this weekend, at the Parlett family farm. Proceeds go to Christmas in April for St. Marys County.

**PROCLAMATION: DOMESTIC VIOLENCE AWARENESS MONTH**

In recognition of their vital work, proclamations observing October as Domestic Violence Awareness Month were presented to members of the St. Marys County Family Violence Coordinating Council and the St. Marys County Commission for Women.

## COUNTY ADMINISTRATOR - PART I

1. Draft Agendas for October 14 and 21, 2008
2. **Dept. of Human Services** (*Bennett Connelly, Director*)

Budget Amendment for donated funds to the Commission on People with Disabilities (\$225)

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*(Cynthia Brown, Mgr., Div. of Community Services)*

**Commissioner Jarboe moved, seconded by Commissioner Mattingly, to approve and authorize Commissioner President Russell to sign the budget amendment that will establish the budget authority for donated funds to the Commission on People with Disabilities in the amount of \$225. Motion carried 5-0.**

Reclassification of 1.0 Mgr. Position, Grade 10, to a 1.0 Coord. Position, Grade 8

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**Commissioner Raley moved, seconded by Commissioner Mattingly, to approve the reclassification of the 1.0 Manager position, Grade 10, to a 1.0 Coordinator position, Grade 8, as requested by the Director of Human Services and as recommended by the Director of Human Resources. Motion carried 5-0.**

3. **St. Marys County Public Schools** (*Kathleen Lyon, Exec. Dir., Student Services; Rhonda Meleen*)

FY09 Categorical request for increase in FTE staffing for General Fund and Local Management Board Grant (\$11,185)

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**Commissioner Mattingly moved, seconded by Commissioner Jarboe, to approve the FY2009 categorical request for the increase in FTE staffing for the FY2009 General Fund budget and Local Management Board grant as submitted, which was approved by the Board of Education on September 23, 2008, and to sign the related letter of consent evidencing this action. Motion carried 5-0.**

4. **States Attorneys Office, Child Support Div.** (*Lyle Long, Sr. Investigator; Pam Soffos, Legal Assistant II*)

Cooperative Reimbursement Agreement and Budget Amendment (\$4,689) increasing Countys Share to meet expenditures

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**Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to execute the Cooperative Reimbursement Agreement, and the related budget amendment to use the BOCC Emergency Appropriation Reserve to increase the Countys share by \$4,689, required to meet the projected expenditures for the States Attorneys Office Child Support Division; Project Number US0911, Contract No. CSEA/CRA 09-021. Motion carried 5-0.**

**5. Circuit Court** (*Teresa L. Weeks, Sr. Legal Assistant*)

MD Dept. of Human Resources Child Support Enforcement Administration Cooperative Reimbursement Agreement and Budget Amendment (\$196)

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**Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the State of Maryland Department of Human Resources Child Support Enforcement Administration Cooperative Reimbursement Agreement, and the related budget amendment increasing the project budget revenues and expenses by \$121, in accordance with the actual agreement, and the Countys match by \$75. Motion carried 5-0.**

Budget Amendment - Decreasing Family Services Project Budget by \$35,526

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**Commissioner Dement moved, seconded by Commissioner Jarboe, to approve the Family Services Coordinator Grant and authorize the Commissioner President to sign the related budget amendment for Project Number MD0920, decreasing project budget revenues and expenses by \$35,526, in accordance with the actual grant agreement/award. Motion carried 5-0.**

**6. Department on Aging** (*Jennie Page, Dep. Director; Peggy Maio, Fiscal Supervisor*)

MOU with the Health Dept. for the Emerg. Back-up Transportation Plan

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**Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and sign the Memorandum of Understanding between the St. Marys County Health Department and St. Marys County Department of Aging for the Emergency Back-up Transportation Plan for Medical Adult Day Services Program Participants and Staff. Motion carried 5-0.**

Ripple Center annual Application Renewal and Management Plan (FY09)

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**Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the FY2009 Application Renewal and Management Plan for the Vivian Ripple Center for partial reimbursement of St. Marys County Medical Adult Day Services and Senior Center Plus programs. Motion carried 5-0.**

**COLLEGE OF SOUTHERN MARYLAND: FOLLOW-UP ON LEONARDTOWN WELLNESS CENTER AND PRESENTATION OF CSM ECONOMIC IMPACT STUDY**

Present: Dr. Bradley Gottfried, President  
Dean F. J. Talley, CSM Leonardtown Campus  
John Fry, consultant

It was announced that the Wellness Center Project has been successfully bid, coming in at approximately two million dollar under the forecasted and budgeted amount. The project is being funded 75% by the State and 25% by the County. The project duration (facility

completion) was estimated as 18 to 24 months. The CSM is in agreement with withdrawing the FY2010 funding request for furniture and equipment and an adjustment to existing funding, resulting in \$412,000 total savings to the County.

**Commissioner Mattingly moved, seconded by Commissioner Dement, to approve the budget amendment to reduce the County funding for the Wellness Center project (PF0506) by \$287,456 -- recognizing the Colleges assertion that the Wellness Center can be completed and outfitted within a project budget totaling \$14,463,824. Motion carried 5-0.**

Commissioner Russell stated Though action is not required, we direct staff that the Wellness Center project be removed from the FY2010 CIP process, eliminating the need for \$125,000 in County funding for that year.

## **COUNTY ADMINISTRATOR - PART II**

### **7. Dept. of Economic and Community Service** *(Bob Schaller, Director; Dennis Nicholson, Executive Director of Housing Authority)*

Request for Release of Funds for Colony Square Rehab. Project CDBG Amendment approved by Board 8/26/08 (\$ 250,000)

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**Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Request for Release of Funds and Certification for the Colony Square Rehabilitation Project Community Development Block Grant (CDBG) amendment, which was approved by the Board on August 26, 2008. Motion carried 5-0.**

*(Donna Sasscer, Agriculture Manager)*

Budget Amendment to reduce the Agriculture Land Preservation Program budget

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**Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President Russell to sign the budget amendment, in the amount of \$352,000, reducing the Agriculture Land Preservation Program revenues and expenses budget due to a reduction in the Agriculture Transfer Tax revenue collected in FY08. Motion carried 5-0.**

### **8. Dept. of Recreation and Parks** *(Phil Rollins, Dir.; Liz Passarelli, Real Property Mgr.)*

Contract of Sale (Beavan Property), settlement check authorization, and earnest check issuance authorization (\$5,000)

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**Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Contact of Sale for the Beavan property for a future County park; to authorize the issuance of the settlement check upon receipt of funding award from the Board of Public Works; and to authorize the Finance Department to issue a check in the amount of \$5,000 for earnest money on the Beavan property upon execution of this contract. Motion carried 3-1-1 (Commissioner Jarboe voted no, Commissioner**

Mattingly abstained).

*Commissioner Jarboe questioned clearing a densely wooded area (for a County park) and the cost associated with stump removal. Mr. Rollins responded that the project plan, when developed, will address the specifics. Mr. Rollins provided a brief overview of Program Open Space (relative to funding). A citizen provided comments in support of the park relative to girls soccer activities. Commissioner Dement acknowledged the need (support for a park in the central area of the county), and that the Board had a lot of concerns that have been addressed, adding that he does not, however, support using taxpayer dollars for developing any of this property until the economy improves.*

**9. Dept. of Public Works & Transportation** (*George Erichsen, Director*)

Public Works Agreement and Agreement Addenda

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**Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Public Works Agreement for Pembroke Subdivision, Phase 2, with an Expiration Date of August 1, 2010, and the Public Works Agreement Addenda for Greenbrier Subdivision, with an Expiration Date of September 1, 2009, and for Riverbay Townhomes, Section 1, with an Expiration Date of August 1, 2009, all located in the 8<sup>th</sup> Election District. Motion carried 5-0.**

**10. Sheriffs Office and Dept. of Public Works & Transportation**

*(Sheriff Tim Cameron; George Erichsen, Director of DPW&T; Erin Shoemaker, Fiscal Manager)*

Capital Project Grant Application/Agreement - Phase I of Adult Detention Minimum Security Facility Addition (\$698,000)

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**Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Capital Project Grant Application, Agreement, and Lobbying Affidavit for State funding of Phase I of the Adult Detention Minimum Security Facility Addition in the amount of \$698,000. Motion carried 5-0.**

**OFFICE OF THE COUNTY ATTORNEY: PRESENT 2009 LEGISLATIVE PROPOSALS AND REVIEW THE PROCESS**

Present: David Weiskopf, Deputy County Attorney  
Angela Blondino, Paralegal

The following 2009 Legislative Proposals (ten submittals) were briefly reviewed by Mr. Weiskopf. The joint public hearing (with Delegation) is scheduled for October 28, 2008, at 6:30 pm.

Proposal #	Proposed by	Proposal Description
1	Mike Thompson	To modify or augment the current solar hot water and solar photo voltaic Maryland Energy Administration Grant Program to be funded with state and local tax credits approximately equivalent to the grant program; to clarify that capital costs of such systems not be added to the property tax assessment when applying state and local property taxes.
2	Mike Thompson	To provide a \$50 tax credit incentive to perform what should be routine maintenance pump-out of residential and business septic tanks on a 5 to 10 year basis.
3	Mike Thompson	To provide a 10% tax credit incentive to add storm water/rainwater cisterns at business and personal properties.
4	St. Marys County Soil Conservation District	Bond Bill in the amount of \$500,000 to assist in the design and construction of an Agriculture Services Center for St. Marys County.
5	Pathways, Inc.	Bond Bill in the amount of \$175,000 to assist in the renovation of facilities to improve access to mental health services as well as the ability to deliver them to adolescent and adult citizens of Southern Maryland.
6	St. Marys County Sheriffs Office	To require that only a deputy sheriff who holds the two (2) preceding permanent ranks in the St. Marys County Sheriffs Office is eligible for appointment to Assistant Sheriff. Currently, only a deputy sheriff who holds the permanent rank of Sergeant or Lieutenant in the St. Marys County Sheriffs Office is eligible for appointment to Assistant Sheriff.
7	St. Marys County Metropolitan Commission	To correct typographical errors, inconsistencies and ambiguities resulting from the Commissions rate restructuring in October, 2007; to delete archaic sections of the Commissions Code; to correct long-standing general inaccuracies within the Code.
8	Alcohol Beverage Board of St. Marys County, Maryland	To increase fine for alcoholic beverage sales violations from \$500 to \$1,000.
9	Department of Finance	To request legislative authority to issue bond financing in the amount of \$80 million to finance a major renovation/addition/upgrade at St. Marys Hospital, which will result in a better interest rate on the hospitals debt.
10	Joseph B. Bush	To make an amendment for addition of a psychologist to the membership of the Adult Public Guardianship Review Board of St. Marys County

## **COMMISSIONERS TIME**

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

Commissioner Dement clarified that he is not in opposition of the three Board of County Commissioners appointments to the 2008 Elected Officials Compensation Review Commission made at the September 23<sup>rd</sup> BOCC meeting. Providing an example where potentially elected officials could receive a pay increase, while, in light of economic conditions, the BOCC may not be in a position to offer County employees a COLA, he stated his concern is process related (with the Commission in general). Additionally, Commissioner Dement clarified the 14.5 million tax increase figure was derived from assessments set by the State, adding that property tax rates havent changed since the current Board has been in office.

## **PUBLIC HEARINGS CONTINUED FROM SEPTEMBER 9 AND 16, 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**

## **AND WORK SESSION**

The public hearings commenced at 12:30 pm and were held in the meeting room at the Chesapeake Building, 41770 Baldrige St., Gov. Center Campus.

This portion of the minutes was taken by Jada Stuckert.

All Commissioners were present. LUGM staff present was Denis Canavan, Director; Phil Shire, Deputy 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.

## **CONTINUANCE OF PUBLIC HEARING: PLANNED UNIT DEVELOPMENT (PUD) #06-145-004 AND DEVELOPERS RIGHTS AND RESPONSIBILITIES AGREEMENT (DRARA) #07-146-001 FOR ST. MARYS CROSSING**

Commissioner President Russell stated this is a continuance of the public hearings held on September 9 and September 16, 2008, on the requested rezoning for the proposed St. Marys Crossing PUD and DRARA. Commissioner President Russell stated we will continue where we left off on September 16, 2008.

Mr. John Norris III reviewed the traffic mitigation fee explaining how the developer calculated the \$2,028.00 fee per home. Mr. Norris stated the Department of Public Works and Transportation recommended fee of \$3,535.00 would impact the potential buyers price. Mr. Norris referenced exhibit O in the PUD document stating based on ERAs analysis the cost of additional County fees would increase the price per unit for the for rent Heritage Series by \$290.00 and \$19,355.00 for each of the for sale units. Mr. Norris reviewed the calculation of development TDR fees which would require 644 TDRs for the project. Mr. Canavan reviewed the calculation and made a correction which would require only 619 TDRs for the project. Mr. Norris stated the cost of additional County Fees based on square footage would place most of the burden on the Discovery Series which is the housing option most available for work force housing. Mr. Norris stated the developer is proposing to pay the \$4,500.00 impact fee, \$2028.00 for traffic mitigation, provide Adequate Public Facilities (APF), and the (TAP) fees. Mr. Norris stated if TDRs are imposed on the project 3,000 citizens will not be able to afford to purchase one of these homes. Mr. Norris stated this development will bring in over one million dollars in tax revenue to the County.

Mr. Canavan stated staff only requested 150 workforce housing units within the development. Mr. Norris stated the objective is to make this development self sustaining. Mr. Norris stated he would provide analysis for only 150 workforce housing units for the next meeting.

Mr. John Groeger gave an overview of the traffic concerns with this project stating the fee in lieu is based on State projections of 13.46. Mr. Groeger stated DPW&T is still supportive of the \$3,535.00 mitigation fee. Commissioner Mattingly stated the design and safety issues for the proposed intersection are a major concern. Mr. Groeger stated sight distance is also a concern.

Mr. Bob Bowles reviewed the memorandum concerning the 22 conditions discussed at the September 16, 2008 as follows:

The private roadway connecting the eastern part of the property, approximately mile in length, to Old St. Andrews Church Road, must be improved to public road standards, as determined by the Department of Public Works and Transportation and subsequently deeded and dedicated to the County.

*Staff response:* We find this condition necessary to serve this size subdivision it will be used for the access point for a large portion of this subdivision.

Applicant will receive approval of intersection improvements at Old St. Andrews Church Road and MD Route 4, as required by SHA.

*Staff response:* The condition is necessary to ensure safe ingress / egress.

Applicant is bound by architectural renderings, as depicted in Appendix A, page AR-7 illustrating the faade of the proposed residences. This amends Chapter 4, page 25, subsection d, of the applicants submitted documents.

Staff response: A minimum of 20% is not acceptable because, per Appendix AR-7, only one of the illustrated townhouses would be required to incorporate the suggested building materials. The purpose of the illustration is to show how architectural design and building materials will be used, yet the developer is suggesting that he not be held to the depicted standards in the illustration. Staff finds the applicant should be bound by the submitted illustrations, and at the very least staff would recommend the architectural design and building materials should encompass at least 40% of the linear frontage of the Townhouses as depicted on Appendix A, page AR-7, 40% would equate to no less than 2 of the 5 townhouses. Mr. Canavan stated this condition is very important as we want to require a high design standard. Commissioner Mattingly asked if the language will contain the word shall which requires they must meet this standard. Mr. Canavan stated this will be in the written condition. Commissioner Raley stated he does not believe government should rule on the aesthetics of a development however the townhouses should have durable, low-maintenance materials.

The pond is to be retrofitted to function as a stormwater facility, not only for subject property, but also to accommodate run off from upland areas.

Staff response: The condition is necessary.

Applicant shall provide a schedule for the recreation amenities, in accordance with the PUD requirements.

Staff response: There should be a schedule that meets the build out, so all buyers may have the opportunity to use the recreational amenities.

The developer will pay a traffic mitigation fee in the amount of \$3,535.00, per dwelling unit, prior to approval of the dwelling units shown on a submitted subdivision or site plan.

Staff response: This figure was based on a calculation that was done in the early stages of this project. We support the latest figures received from Department of Public Works and Transportation of \$3,535.00 per unit.

No less than 150 workforce housing units or 17.3% of the total 868 units shall be available for county workforce initiatives. These units shall be available for rent or purchase to residents with income levels up to 110% of median household income. The number of units will be proportionate to the total number of units shown on a site plan or subdivision for each phase of residential development.

Staff response: Staff recommends this condition remain.

Submit an annual report to the Planning Commission or after every 75 dwelling units, whichever occurs first.

Staff response: This condition could use further clarification. Staff recommends annually or at the end of each of the 7 phases, whichever comes first.

All residential development anticipated in Phase A will be completed prior to any residential building permit being issued for Phase B, by Department of Land Use and Growth Management.

Staff response: Staff agrees with re-wording this condition. Staff recommends that development in Phase B may commence upon completion of 300 of the 400 dwelling units (or 75% buildout), in Phase A.

Mr. Bowles stated staff is also recommending three additional conditions are added as follows:

The Applicant is to enter into a Development Rights and Responsibilities Agreement (DRARA), per Section 29.0 of the Comprehensive Zoning Ordinance #02-01, containing language for the purpose of School mitigation and Traffic mitigation.

Condition on the use of Transfer Development Rights (TDRs). Section 44.7.2 of the Comprehensive Zoning Ordinance, Permitted Densities, Intensities and Uses states: Maximum allowed density and intensity in Planned Unit Development Districts may be achieved through the purchase of TDRs.

Any standards not addressed by the Development Plan must be in accordance with all applicable County, State and Federal regulations.

Commissioner Raley asked for a description of the comparison of development in a PUD versus the RL zone. Mr. Bowles reviewed the differences stating with a PUD there is no maximum residential density, housing options are the same, RL zone would require 124.5 acres of open space where the PUD will provide 124 acres. Mr. Bowles stated usable developed open space in the RL zone would be 25-30 acres and the PUD will provide 25 acres, there is flexibility in size and setbacks for the PUD as well as road standards within the development. Mr. Bowles stated the water and sewer infrastructure regulations are the same, if the \$3,535.00 for traffic mitigation is used there is no difference, the RL zone would require 619 TDRs whereas the PUD would require TDRs at the discretion of the Commissioners. Mr. Bowles stated there is no mitigation required for the school site in the RL zone since the adoption of the Annual Growth Policy however with the PUD the school site may be donated via the DRARA, but mitigation trade-off will not be school seat capacity as there is no current shortage. Mr. Bowles stated the 26 acre ready-to-build school site is valued at \$4.5 million based on residential potential of 5 units times 26 acres which would equal 130 lots valued at \$35,000.00 each.

Commissioner Raley asked what the benefit of the PUD to the citizens would be. Mr. Bowles stated in this case the school site is the benefit. Mr. Canavan stated there is also the benefit of delivering an affordable produce to the public. Commissioner Raley asked what the benefits are in regards to the traffic and roads. Mr. Canavan stated for the most part the benefits are the same however with the PUD you know up front what improvements will be made to the roads. Commissioner Mattingly asked if the RL zone would require the second access point be made public. Mr. Canavan explained the ordinance does not specify public or private therefore this would have to be stated within a condition.

Commissioner President Russell stated we will not close the public hearings, rather set them aside for a work session regarding both projects.

A fifteen minute recess was held in order to set up for the work session.

### **RE-CONVENED FOR WORK SESSION**

Mr. Canavan stated after meeting the State Highway Administration (SHA) they are recommending a round-about be placed on Route 4 to help slow down the flow of traffic for this project. Commissioner Mattingly stated a round-about will not function and the design and analysis of the traffic in this location are not adequate. Commissioner Mattingly stated until this intersection is properly modified we wont be improving the safety. Mr. Norris agreed a traffic light would be the best scenario for this intersection. Commissioner Mattingly stated when the school is built a traffic signal will then be warranted by SHA.

Commissioner Mattingly recommended placing a right turn lane into St. Andrews Lane. Mr. Canavan stated a condition could be added to require this right turn lane. Commissioner Mattingly stated there needs to be satisfactory sight distance towards Indian Bridge Road as well.

The Commissioners discussed the secondary access. Mr. Norris stated utilizing the secondary access would change the mitigation fees as well as lessen the warrants for the traffic light. Mr. Norris stated if the secondary access is gated this will help warrant the traffic light. The Commissioners discussed the safety issues for emergency response teams if the secondary access is gated. After discussion it was decided to have Mr. Groeger work with the applicant and staff to construct language for dam safety.

Commissioner Mattingly asked about the disclosure of the proximity of the County landfill. Mr. Canavan stated this is condition #12. Mr. Norris stated he is concerned with the legal implication this may cause for the County. Commissioner Mattingly stated he would speak with the Countys legal department regarding this issue. Commissioner Jarboe stated disclosing this information is just good business.

Commissioner Raley stated there has to be a traffic light in place prior to the construction on Route 4 and Hunt Club Road. Commissioner President Russell agreed stated the citizens of St. Andrews Estates are requesting this because they live in the area and knows the traffic patterns and problems. It was the consensus of the Commissioners that a round-about is not sufficient.

**Commissioner Raley made a motion to close the work session and Commissioner Jarboe seconded. The motion passed by a 4-0 vote.** Commissioner Dement was not present.

**Commissioner Raley made a motion in the matter of DRARA #07-146-001 and PUD #06-145-004, St. Marys Crossing that the hearing be continued to October 28, 2008 at 2:00 p.m. in the Commissioners Meeting Room of the Chesapeake Building and Commissioner Mattingly seconded. The motion passed by a 4-0 vote.** Commissioner Dement was not present.

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

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