

**ST. MARYS COUNTY  
BOARD OF COUNTY COMMISSIONERS MEETING  
CHESEAPEAKE BUILDING  
Tuesday, November 18, 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 Coord. (LU&GM Recorder)

**AM EVENT**

The Commissioners attended the 2<sup>nd</sup> Annual Caregivers Breakfast at the Forrest Career & Technology Center, sponsored by the Department of Aging, Home and Community Based Services Division.

**CALL TO ORDER**

Commissioner President Russell called the meeting to order at 10:05 am.

**ANNOUNCEMENT**

Bob Schaller announced that a public forum will be held this evening at the Forrest Career and Technology Center to discuss the current state of housing for St. Marys County. The forum is being hosted by St. Marys County Government and the Community Workforce Housing Task Force.

**DELETION TO AGENDA**

Mr. Savich announced that County Administrator Item # 3; i.e., Maryland Institute of Emergency Medical Services Systems (MIEMSS) Advanced Life Support Education Grant Agreement and the related budget amendment, will be postponed until a later date (pending anticipated new information from the state).

**APPROVAL OF CHECK REGISTER**

**Commissioner Raley moved, seconded by Commissioner Jarboe, to authorize the Commissioner President to sign the Check Register for checks dated November 18, 2008, 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 November 10, 2008, as presented. Motion carried 5-0.**

## **COUNTY ADMINISTRATOR**

1. Draft Agenda for November 25 and December 9, 2008 (BOCC does not meet on December 2)
2. **St. Marys County Cooperative Extension** (*Liat Mackey, Family and Community Science Educator*)

**Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the budget amendment transferring \$22,525 in salary/fringe savings to the BOCC Emergency Reserve Account. Motion carried 5-0.**

3. **Dept. of Public Safety**

The Maryland Institute of Emergency Medical Services Systems (MIEMSS) Advanced Life Support Education Grant Agreement and the related budget amendment were postponed until a later date.

4. **Dept. of Information Technology** (*Bob Kelly, Director*)

**Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the Memorandum of Understanding with the State of Maryland, Department of Information Technology, for purposes of allowing state access to the county fiber optic infrastructure to allow services to be provided to county and state agencies and to accept access to additional internet bandwidth for the County. Motion carried 5-0.**

5. **Dept. of Economic and Community Development** (*Bob Schaller, Director; and Carolyn Laray, Mgr., Tourism Division*)

**Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Southern Maryland Heritage Area Consortium 2008 Mini-Grant Award Acceptance, in the amount of \$1,000, for a Celebrate 375 project; and to approve and authorize the Commissioner President to sign the related budget amendment reflecting this \$1,000 grant and the Countys \$1,000 cash match. Motion carried 5-0.**

6. Dept. of Agings Notification of Grant Award item was presented later in the meeting.

7. **Office of the County Administrator** (*John Savich*)

**Commissioner Jarboe moved, seconded by Commissioner Dement, to appoint Al Harrison to the Recreation and Parks Board, as the public schools representative, with a term to expire December 31, 2010. Motion carried 5-0.**

**DEPT. OF LAND USE & GROWTH MANAGEMENT:**

**1. REQUEST EXTENSION OF LEGISLATIVE PROCESSING DEADLINE FOR APPROVAL OF PROPOSED TEXT AMENDMENT TO ALLOW SMALL WIND ENERGY SYSTEMS**

Present: Phil Shire, Acting Director

The 125-day legislative processing period set for the proposed text amendment will expire on December 1, 2008. In light of the upcoming Planning Commission meeting (December 8<sup>th</sup>) and in anticipation of receiving written comments from the Navy, Mr. Shire requested an extension of the deadline until January 27, 2009. Mr. Shire added that staffs plan is to return on January 9, 2009, to request a decision by the Board on this matter.

**Commissioner Mattingly moved, seconded by Commissioner Raley, to extend the deadline imposed by Resolution 2005-03 for approval of a proposed zoning text amendment pertaining to wind turbines until January 27, 2009. Motion carried 5-0.**

**2. PRESENT GROWTH POLICY PROCEDURE FOR ADOPTION**

Present: Phil Shire, Acting Director  
Bob Bowles, Planner IV

The Board of County Commissioners adopted an Annual Growth Policy on August 19, 2008, with an effective date of September 4, 2008 (re: Resolution 08-40). Mr. Bowles presented a draft Growth Policy Procedure that outlines fourteen program objectives and requirements. Staff developed the procedure with input from the APF (Adequate Public Facilities) Task Force. The Planning Commission reviewed the procedure and recommends BOCC approval. The document will also serve as a customer assistance guide.

It was clarified that LU&GM will maintain and track the queue list (#5, Procedure for Tracking Allocations). The Development Services Department and the Planning Commission will jointly maintain and track the information. Bob Bowles will be the responsible staff person.

The BOCC adopted the annual growth policy allowing an annual growth rate of 1.9% for the forthcoming twelve (12) month period from July 1 to June 30. Subsequent annual growth rate factors shall be determined annually for each July 1 to June 30 period.

**Commissioner Raley moved, seconded by Commissioner Jarboe, to adopt the Annual Growth Policy Procedures dated November 18, 2008 as submitted by staff. Motion carried 5-0.**

## **COUNTY ADMINISTRATOR, CONTD**

### **6. Dept. of Aging (*Peggy Maio, Fiscal Specialist*)**

**Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize Commissioner President Russell to sign the Notification of Grant Award, totaling \$256,932, from the Maryland Department of Aging, for the FY2009 Older Americans Act Title III. Motion carried 5-0.**

Commissioner Dement left the meeting at 11:15 am.

## **LIBRARY BOARD OF TRUSTEES: ANNUAL REPORT & NEW LIBRARY PLANNING UPDATE**

Present: Kathleen Reif, Director  
Board of Trustees Chair Alan Dillingham and members:  
Jan Briscoe, Joan Springer, Dan Burris, Joseph Bush, Carole Romary, and  
Everyln Holland

Ms. Reif presented the annual report, which contained library priorities, statistics, funding resources, and activities information. A library facilities needs study was completed in 2007. A Library Facilities Study completed in 2007 recommended expanding the Charlotte Hall Library, building a new library in the Hollywood/California area, and building a new facility for the Leonardtown Library and the systems administrative offices.

In order to use state grant funding and meet the April 09 deadline for a FY2011 state capital grant request, the location of the new library (or a decision to renovate the existing building) must be determined. Board support and direction to generate an RFP for an architect was requested.

Mr. Savich said he has communicated with George Erichsen and suggested returning within the next few weeks with an analysis of options and recommendations.

### **COMMISSIONERS TIME**

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

### **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**

The public hearings commenced at 2:00 pm and were held in the meeting room at the Chesapeake Building, 41770 Baldrige St., Gov. Center Campus.

This portion of the minutes was recorded by Jada Stuckert, Department of Land Use and Growth Management.

All Commissioners were present. LUGM staff present was Phil Shire, Deputy Director; Bob Bowles, Planner IV; and Jada Stuckert, Recording Secretary. County Attorney Christy Holt-Chesser and Deputy Attorney David Weiskopf were also present, as was John Groeger, Department of Public Works and Transportation Deputy Director.

Mr. Bowles gave an overview stating this case is returning to the Board of County Commissioners for a continuance of the public hearing, held September 9, 2008, September 16, 2008, October 7, 2008 with a work session, and on October 28, 2008 for the St. Marys Crossing PUD and DRARA. Mr. Bowles gave a recap of items discussed such as signal light, right turn lane west bound on Route 4 into St. Andrews Lane, improvements to Old St. Andrews Church Road, disclosure on the proximity of the landfill, school site dedication 26 or 56 acres, community center construction commencement, 30% front faade instead of 40%, retrofitting the pond, \$2028 versus \$3535 traffic mitigation, and TDRs if required.

Commissioner Raley asked how many TDRs would be required if this were not a PUD and subject only to the regulations as a subdivision with RL zoning. Mr. Bowles stated 619 TDRs would be required. Commissioner Raley inquired about the credit for workforce housing. Mr. Bowles stated there would be no credit for workforce housing if this was done as a subdivision with RL zoning.

Commissioner Raley asked what happens to the traffic mitigation fee after they are received. Mr. Shire stated the monies are placed into an account to be used for improvements on Route 4 until State Highway Administration (SHA) deems them warranted.

Commissioner Jarboe asked if disclosing the landfill is still an issue. Mr. Shire stated this is still an outstanding issue.

Mr. John Norris III gave an overview stating a revised DRARA has been submitted which contains an additional mitigation fee of \$3,000 per dwelling to be used at the discretion of the Commissioners. Mr. Norris stated the applicant is still opposed to the disclosure of the landfill as it will not only lower the property values in the development but may put the countys conditional use for the landfill in jeopardy. Mr. Norris asked that this condition be stricken from the conditions. Commissioner Raley asked if boring tests have been done on the property. Mr. Norris stated yes and there was no evidence of contamination from the landfill site.

Commissioner Raley asked if there was no notification of the landfill could the County be held liable later. Mr. Norris stated the landfill has a 200 foot buffer surrounding the property as well as the buffers on this development. Mr. Norris stated the closest house would be a minimum of 400 feet away from the landfill itself and again recommended this condition be removed.

Mr. Norris explained Hunt Club Road will remain the main access point while Johnson Pond Lane to Route 4 will be upgraded to public standards and deeded and dedicated to the County as a second access prior to the 76 building permit. Mr. Norris stated Johnson Pond Lane in the rear of the development will be upgraded to public standards but shall remain private as an emergency access only. Commissioner President Russell asked if the applicant believed a sign would stop people from using the second and third access points. Mr. Norris stated if signs did not work maybe the accesses could be gated and emergency services provided a key to the gate.

Commissioner Raley referred to the November 3, 2008 letter from the St. Marys River Watershed Association and asked for a response from Mr. Norris. Mr. Norris stated there is a constant 100 foot buffer around the site. Mr. John Norris Jr. stated there are two major components to this pond, one is controlling the volume of water coming onto the property and two is improving the water quality which leaves the property. Mr. Norris stated rain gardens will be used at each house as well as in the landscaping throughout the development. Mr. Norris III stated the applicant will replace the existing dam to preserve water levels and habitat.

Commission Raley stated he is having a hard time rationalizing the TDRs. Mr. Norris III explained the applicant has 249 development rights and there are 868 dwelling units, including workforce housing, within the proposed development. Mr. Norris stated if you subtract out the 249 development rights from the 868 total dwelling units, you have 619 dwelling units. Mr. Norris explained 619 is the amount of TDRs the applicant would need to purchase if this was a regular subdivision in the RL zone. Mr. Norris stated you subtract the required 150 workforce housing units from the 619 and you get 469 dwelling units. Mr. Norris stated 469 dwelling units times \$15,000 per TDR would equal \$7,035,000 which you would then divide by three to have one TDR for every three dwelling units which equals \$2,345,000. Mr. Norris stated you would then take the

\$2,345,000 and divide it by the original 868 dwelling units equals \$2,702 which is what would be paid per dwelling unit in a DRARA fee.

Commissioner President Russell opened the hearing to public testimony. Mr. Mike Barnes stated the zoning ordinance regulations state only eight (8) houses can utilize a private right-of-way. Mr. Barnes stated there will now be 868 dwellings using a private right-of-way and asked how this is possible. Mr. Barnes stated if this road is upgraded to a public road but not deeded and dedicated to the County who will become liable for incidents on this private road.

Ms. Mary Ruth-Horton stated she is confused about the impact fees. Ms. Horton stated she is concerned with a pool of money being paid without it being used for the original dedicated project. Mr. Groeger stated once paid the money is placed into a County account to be used on Route 4 for all projects approved by SHA. Ms. Horton stated she is highly concerned that the money cant be zeroed in on a specific project and that it could be used anywhere on Route 4.

Ms. Eileen Hislop stated the disclosure of the landfill is important. Ms. Hislop stated she reviewed the Homeowners Association information and it seems they will have a lot of responsibility. Ms. Hislop asked if the renters would be required to join in the Homeowners Association as well. Mr. Norris stated the management company of the rental dwellings would be entered into the Homeowners Association.

Mr. Bob Lewis of the St. Marys River Watershed Association explained the stream through the property is the main branch of St. Marys River tributary.

Mr. Bowles stated staff would forward the final findings for the project to the Commissioners. Commissioner Raley stated he would like the conditions split into groups of what has been agreed upon and what hasnt been agreed upon. Commissioner Raley stated he would also like to see a comparison of purchasing TDRs versus paying the additional mitigation fee of \$3,000. Commissioner Mattingly stated the timing for land preservation is good as the State has announced a lack of funding in this area.

Commissioner President Russell closed both the DRARA and PUD public hearings and left the written comment period open for a period of ten (10) days.

Commissioner Dement made a motion to adjourn at 3:35 p.m. and Commissioner Raley seconded. The motion passed unanimously.

**CONTINUATION OF THE PUBLIC HEARING ON PROPOSED ZONING  
TEXT AMENDMENT TO ALLOW SMALL WIND ENERGY SYSTEMS  
(WIND TURBINES)**

Present: Phil Shire, Acting Director  
Yvonne Chaillet, Zoning Administrator  
Bob Bowles, Planner

The public hearing, continued from November 3, 2008, commenced at 6:30 pm and was held in the meeting room of the Chesapeake Building. Commissioner Dement was absent.

Staff provided the BOCC with a copy of the November 17, 2008, Planning Commission Work Session notes and a document outlining Definitions and Assessor Standards for Small Wind Energy Systems for St. Marys County.

Ms. Chaillet addressed questions/issues resulting from the November 3, 2008, BOCC public hearing:

Wind turbines will not collapse on themselves.

No changes to electrical code will be required.

SMECO will be interested in an Inter-Connection Agreement with the property owner (agreement defines what is going on the grid and the capacity). SMECO will inspect the system once installation has been completed.

Language added requiring a variance or recordable agreement from the adjoining property owner (if the required 1:1 ratio between the tower height and setback from an adjoining property line cannot be met).

Language added for abandoned or damaged wind turbines (must be removed within one year).

Mr. Shire stated that staff plans to bring the proposal back before the Planning Commission on 12/8/08 and to hopefully present the proposal to the BOCC for decision at their 12/9/08 meeting.

Pertaining to their statement that wind system hardware will not be allowed in the tidal water buffer (100 feet, 200 feet, or more from tidal water), Commissioner Mattingly questioned if there had been a response from the Critical Areas Commission to include language in the document for a variance within a critical area. Ms. Chaillet responded no and added that Ms. Guazzo, of the Planning Commission, recommended not allowing a variance for set back reductions. Commissioner Mattingly added that he feels water (versus land locations) would be an optimal place to put a wind turbine, and that it should be stressed that placing a wind turbine in the water would result in minimal disturbance. Commissioner Russell said that he would follow-up with the Critical Area Commission if needed.

Commissioner Jarboe commented on the Planning Commissions recommendation that small wind systems not be allowed on any historic sites or viewsheds and asked how the

Planning Commission defined a viewshed. Commission Jarboe said he thinks some significant details have been left out; adding that, for example, the Amish community is part of a viewshed.

The findings, resulting from the 11/17/08 Planning Commission work session were reviewed.

Maximum should height 120 feet

Allow in all zoning districts, but not in the Leonardtown or Lexington Park development districts. However, public utilities should be allowed to place small wind energy systems in Lexington Park and Leonardtown.

Minor site plan is acceptable submission for building permit applications

Tower should be design to prohibit ladders being readily accessible and should be a minimum of 15 feet (change from 10 feet).

Should be on a minimum of one acre (Mr. Shire stated the lot dimensions are a factor)

The blade tip should have at its lowest point no less than 20 feet of clearance (change from 15 feet).

Commissioner President Russell opened the hearing for public testimony at 6:45 pm.

### **Public Testimony**

#### **Rich Johnson, 19026 Russell Rd., Valley Lee, MD 20692**

Mr. Johnson spoke unoptimistically about the ordinance changes; i.e., decreasing the height from 150 to 120 feet (impact on large farms), modifying the steps from 10 to 15 feet and the ladder requirement, and the blade separation tip to ground change from 20 to 15 feet. Mr. Johnson said he had a friend in New Jersey that worked with a similar ordinance that commented the draft ordinance looked fine to him.

Mr. Johnson added that the height works for him (system comes with a 120 tower), however, hed like to keep the ordinance (requirements) more open.

#### **Chris Yagmin, 19030 Russell Rd.**

Mr. Yagmin said that he is Mr. Johnsons neighbor and questioned the layout plan (location) for Mr. Johnsons system. Mr. Yagmin said he is concerned about (1.) aesthetics and the negative impact on neighboring property value and (2.) proximity. Houses are close together (pictures normally have wind turbines in the middle of a large field). If a blade comes off, at 250 to 2500 RPMs, its going a long way, probably on to someone elses property.

Mr. Yagmin said he thinks water installation (versus land) would be a better alternative. Mr. Yagmin submitted to record a newspaper article about banning a type of wind turbine blade that snapped off and traveled about 150 feet. He also referenced a video on Utube that shows a wind turbine system breaking apart. Mr. Yagmin said his garage is 100 feet from Mr. Johnsons front door (200 feet from front door to front door).

**Rich Johnson,**

Mr. Johnson said his system is small not industrial, and there have been no incidents of blades coming off or collapses. He clarified the location of his system will be 500 feet away (down by the water) and that is working with the critical area.

Commissioner President Russell closed the public hearing at 6:55 pm and set the open record period for written comments at two weeks.

**ADJOURNMENT**

**Commissioner Mattingly moved, seconded by Commissioner Jarboe, to adjourn the meeting. Motion carried 4-0.**

The meeting adjourned at 7:00 pm.

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

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