

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
GOVERNMENTAL CENTER
Tuesday, December 5, 2006**

Present: Commissioner President Francis Jack Russell
Commissioner Kenneth R. Dement
Commissioner Lawrence D. Jarboe
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley
George G. Forrest, County Administrator
Betty Jean Pasko, Senior Admin. Coordinator (Recorder)

The meeting was called to order at 9:00 AM.

CHANGES TO AGENDA

Commissioner Jarboe added appointments to the Tri-County Council to the Board's agenda.

APPROVAL OF CHECK REGISTER

Commissioner Raley moved, seconded by Commissioner Jarboe, to authorize the Commissioner President to sign the Check Register as presented. Motion carried 5-0.

APPROVAL OF MINUTES

Commissioner Mattingly moved, seconded by Commissioner Dement, to adopt the minutes of the Commissioners' meeting of November 21, 2006, as presented. Motion carried 5-0.

BOARD OF COUNTY COMMISSIONERS APPOINTMENTS

Commissioner Jarboe moved, seconded by Commissioner Dement, to appoint Commissioner Mattingly to the MACo Legislative Committee as Member and Commissioner Russell as Alternate. Motion carried 5-0.

Commissioner Jarboe moved, seconded by Commissioner Dement, to appoint Commissioner Raley as the BOCC Vice-Chair. Motion carried 5-0.

Commissioner Jarboe moved, seconded by Commissioner Dement, to reappoint Commissioner Mattingly to serve on the Nursing Center Board. Motion carried 5-0.

Commissioner Mattingly moved, seconded by Commissioner Dement, to reappoint Commissioner Jarboe, as the BOCC Member, and Mary Lynn Stone, as Citizen Member, to serve on the Tri-County Council. Motion carried 5-0.

BOARD OF COUNTY COMMISSIONER STAKES POSITIONS ON 2007

LEGISLATIVE PROPOSALS

Present: Colin Koehan, Deputy County Attorney

The Commissioners presented their positions on each of the 2007 Legislative Proposals presented at the Joint Public Meeting on November 14, 2006, as follows:

FJR Commissioner President Francis Jack Russell
 KRD Commissioner Kenny Dement
 TAM Commissioner Tom Mattingly
 LDJ Commissioner Larry Jarboe
 DHR Commissioner Dan Raley

#	Submitter and Proposal	Support	NoSupport	NoPosition
1	<i>Raymond Dudderar</i> Establish objective metrics/standards for erosion and sedimentation control and hold applicants liable for all damage caused by erosion and sedimentation from disturbed site. (Statewide)	FJR KRK TAM LDJ DHR		
2	<i>Edwin Henningson</i> Prohibit construction in residential developments until current traffic conditions have been thoroughly evaluated, addressed and a traffic management plan has been implemented. Temporarily halt construction in residential developments with existing traffic problems until corrective action has been taken to evaluate, address and implement traffic management plans.		KRD TAM LDJ DHR	FJR - abstained
3	<i>Keith Harless</i> Provide school personnel who are responsible for monitoring children during outside activities, including, but not limited to, recess and bus loading or unloading, with Maryland Sex Offender Information. This information will support the development of	FJR KRK TAM LDJ DHR		

	a protocol for school district and personnel to follow as they seek to establish a safe environment in the immediate vicinity of public schools.			
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#	Submitter and Proposal	Support	NoSupport	NoPosition
4	<i>Keith Harless</i> Require schools receiving Maryland state funds to perform background checks on all employees and volunteers, including review of sex offender registries in all states the person has previously resided or worked.	FJR KRD TAM LDJ DHR		
5	<i>Keith Harless</i> Require sentencing of convicted sex offenders to include mandatory lifetime registration on the sex offender registry.	FJR KRD TAM LDJ DHR		
6	<i>Keith Harless</i> End the Maryland Estate "Death" Tax.	KRD TAM LDJ DHR		FJR – abstained
7	<i>Joe Johnson</i> Prohibit tax on the value of used component or core automotive parts when received from a purchaser of any remanufactured automotive parts.	FJR KRD TAM LDJ DHR		
8	<i>St. Mary's County Hospice House</i> Bond Bill in the amount of \$250,000.00 to contribute toward construction of St. Mary's County Hospice House.	FJR KRD TAM LDJ DHR		
9	<i>St. Mary's County Historical Society</i> Bond Bill in the amount of \$150,000 to repair, improve and upgrade the condition of historic Tudor Hall	FJR KRD TAM LDJ DHR		
10	<i>St. Clements Hundred</i> Bond Bill in the amount of \$175,000 to rebuild the historic lighthouse on St.	FJR KRD TAM LDJ		

	Clements Island StatePark	DHR		
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#	Submitter and Proposal	Support	NoSupport	NoPosition
11	<i>Alcohol Beverage Board of St. Mary's County, MD</i> Increase fine for alcoholic beverage sales violations from \$500 to \$1,000.	KRD TAM LDJ DHR-(if license is not in the Board's name)		FJR – abstained
16	<i>Southern Maryland Mental Health Coalition</i> Establish a central statewide resource of local nonmilitary services for veterans. Charter a state task force to provide recommendations for fostering interagency collaboration to resolve gaps in health care services for veterans. Request a VA funding partnership to allocate money to mental health services to train clinicians treating veterans returning from combat.	FJR KRD TAM LDJ DHR		
17	<i>Southern Maryland Mental Health Coalition</i> Provide \$100,000 in funding to be managed by the Mental Health Authority of St. Mary's, Inc. and distributed on a case by case basis to improve mental health treatment for individuals who are uninsured or underinsured.	LDJ –based on state funding		FJR - abstained KRD TAM DHR
18	<i>St. Mary's County Health Department</i> Reduce the penalty for illegal tobacco sales to minors from a criminal offense to a civil one.	FJR KRD TAM LDJ DHR		
19	<i>St. Mary's County Metropolitan Commission</i> Increase the terms of the Metropolitan Commission board members from 3 years to 5 years for the purpose of improving their effectiveness by increasing their cumulative corporate memory and knowledge.	FJR KRD TAM DHR	LDJ	

#	Submitter and Proposal	Support	NoSupport	NoPosition
20	<i>St. Mary's County Metropolitan Commission</i> Change the method of capital improvement financing from the existing benefit assessment charged based system to a system improvement charge and a capital contribution charge system.	FJR KRD TAM LDJ—support based on numbers provided DHR		
21	<i>DECD/Housing Authority, St. Mary's County</i> Provide relief from recordation tax when a governmental agency borrows funds, not necessarily for the purchase of land, but possibly for construction or other purposes.	FJR KRD TAM LDJ		DHR
22	<i>Department of Land Use and Growth Management</i> Amend Environment Article Section 9-506 as necessary to provide that the St. Mary's Board of County Commissioners or their designee may consider amendments to the Comprehensive Water and Sewer Plan within designated growth areas.	KRD TAM DHR	LDJ	FJR
23	<i>Department of Land Use and Growth Management</i> Authorize state enabling legislation relevant to subdivision regulations.	KRD TAM DHR	FJR LDJ	
24	<i>Office of The County Attorney</i> Allow St. Mary's County to transfer, with or without consideration, real property within the county, that is no longer needed for a public purpose to any private nonprofit in the County to the Housing Authority.	FJR KRD TAM DHR	LDJ	

BENJAMIN BANNEKER ELEMENTARY SCHOOL STUDENTS: CHORAL HOLIDAY PRESENTATION

Present: Lynne Morgan Smoot, Supervisor of Instruction for Fine Arts
Lisa Bachner, Principal, Benjamin Banneker Elementary School
Laurel Dietz, Choral Teacher, Benjamin Banneker Elementary School

Benjamin Banneker Elementary School student chorus:

Sonia Lee Olivia Wood Hannah Ray Melissa Kriz
Shelby Gassie Angelica Freeman Emilie Garner Angel Higgs
Brittany Hancock Kirsten Clark Allison Gaddis Austin Wathen
Lindsay Coppersmith Davis Kellogg Caitlin Adams Leah Tayman
Maeve Coughlin Allison Williams Samantha Lyon-Carpenter
Rosie Click Adrian Carkhuff Christina Labows Anna-Beth Lowien Melanie
Knight Brianna Church

Accompanied by Sarah Parsons, the students presented a choral and musical holiday presentation. The Commissioners presented each of the students with a commendation for their musical presentation in recognition of the holiday season.

COUNTY ADMINISTRATOR

1. Draft Agendas for December 12 and 19, 2006

2. **Recreation, Parks and Community Services** (*Phil Rollins, Director, RP&CS; Debra Pence, Museum Division Director, RP&CS*)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the Maryland Heritage Areas Authority Grant Agreement for the Piney Point Lighthouse Museum and Park and related assurances. Motion carried 5-0.

3. **Department of Economic & Community Development**

(*Carolyn Laray, Tourism Manager, DECD*)

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the FY2007 County Cooperative Tier II Marketing Grant Agreement and the related Budget Amendment reflecting an increase of \$19,629 in the FY07 budget for the project. Motion carried 5-0.

(*Dennis Nicholson, Executive Director HASMC; Rhonda Garcia, Program Mgr., HASMC; Jan Barnes*)

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Letter of Intent that allows St. Mary's County to participate in the Maryland Housing Rehabilitation Program and

name the Housing Authority of St. Mary's County as the local administrator. Motion carried 5-0.

4. Department of Human Resources *(Sue Sabo, Director, HR)*

Commissioner Raley moved, seconded by Commissioner Dement, to approve and sign Amendment to Resolution 2006-78, Appointment of New Sheriff's Office Retirement Plan Trustee, to correct identification of the previous trustee from Wachovia Securities to Wachovia Bank. Motion carried 5-0.

SOIL CONSERVATION DISTRICT AND DEPT. OF ECONOMIC & COMMUNITY DEVELOPMENT: PRESENT FOR APPROVAL THE COOPERATIVE AGREEMENT BETWEEN NATURAL RESOURCES CONSERVATION SERVICE OF THE U.S. DEPT. OF AGRICULTURE AND ST. MARY'S COUNTY

Present: Bruce Young, Soil Conservation District
Donna Sasscer, Agriculture Mgr; DECD

The Cooperative Agreement is to provide a Soil Survey update for St. Mary's County. The current Soil Survey was last updated in 1976. The new soil survey information will be updated and in digital format and can be placed in layers to import into a GIS mapping system. Ms. Sasscer clarified the budget and financial impact. Originally funded \$360,000, with one half being County funds and one half State Federal matching funds. Funds have been identified in the FY2008 (\$180,000) and in the FY2009 (\$4,608) CIP budgets, which will be corrected in conjunction with the CIP process.

Once completed, the survey data will be available to the public at no cost. CDs will be available and the NRCS will provide copies via their website, which can also be placed on the County's website.

Commissioner Raley moved, seconded by Commissioner Jarboe, that the Board of County Commissioners for St. Mary's County authorize the Commissioner President to sign and approve the Cooperative Agreement with the U.S. Department of Agriculture's Natural Resources Conservation Service in which the County will provide cost-sharing funding to the Natural Resources Conservation Service for the modernization of the County's soil survey. Motion carried 5-0.

Commissioner Mattingly moved, seconded by Commissioner Dement, that the Board of County Commissioners for St. Mary's County authorize the Commissioner President to sign and approve the Memorandum of Understanding which defines the responsibilities of St. Mary's County and the other agencies involved in the soil study. The MOU is between the U.S. Department of Agriculture's Natural Resources Conservation Service and Maryland Agricultural Experiment Station, Maryland Department of Agriculture, Maryland Geological Survey, St. Mary's County Commissioners, and the St. Mary's County Soil Conservation District. Motion carried 5-0.

MOTION TO ENTER INTO EXECUTIVE SESSION

Commissioner Raley moved, seconded by Commissioner Jarboe, to go into Executive Session for the purpose of discussing matters relating to Litigation, Real Property Acquisition, and Personnel (not to include Boards and Commissions). 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
George Forrest, County Administrator
Christy Chesser, County Attorney
Denis Canavan, Director, Land Use and Growth Management
Donna Gebicke, Administrative Assistant to the BOCC, Recorder
Authority: Article 24, Section 4-210(a)8
Time Held: 11:05 am – 11:20 am
Action Taken: The Commissioners discussed pending litigation matter.

Personnel

Present: Commissioner Francis Jack Russell, President
Commissioner Kenneth R. Dement
Commissioner Lawrence D. Jarboe
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley
George Forrest, County Administrator
Donna Gebicke, Administrative Assistant to the BOCC, Recorder
Authority: Article 24, Section 4-210(a)1
Time Held: 11:20 am – 11:30 am
Action Taken: The Commissioners discussed personnel matter.

**DEPT. OF LAND USE AND GROWTH MANAGEMENT: PUBLIC HEARING
TO CONSIDER A REQUEST FOR GROWTH ALLOCATION FOR
RIVENDELL FARM (PSUB # 04-120-033) TO: (1) DEDUCT 31.9024 ACRES OF
GROWTH ALLOCATION FROM THE COUNTY ALLOTMENT AND MAP A
PORTION OF THE PARENT TRACT AS LDA TO CORRECT PRIOR ERROR
AND 2) GRANT APPROVAL OF GROWTH ALLOCATION TO CONVERT**

16.08 ACRES OF RCA TO LDA NEEDED FOR 4 ADDITIONAL LOTS ON THE PORTION OF THE PROPERTY

Present: Jeff Jackman, Sr. Planner, LU&GM

Sue Veith, Environmental Planner, LU&GM

Herb Redmond, Sr., Vice President, D.H. Steffens Company

Daniel J. Guenther, Esq. Attorney

The purpose of the Public Hearing was to receive public testimony on a proposal to change the Critical Area overlay from Resource Conservation Area (RCA) overlay to the Limited Development Area Overlay for Project PSUB #04-120-033, Rivendell Farm Lots 5000-2 and 6 through 9, on 47.9824 acres as follows:

- 1.) 37.325 acres encompassing the Critical Area portions of White Plains Farm Lots 4, 5, 6, 7, White Plains subdivision Lot 500-1 and Thomas Harrison Reeves Subdivision Farmstead 1 to correct an error that allowed density to exceed 1 dwelling per twenty acres on the parent parcel which contained approximately 105.74 acres of which 74.2834 acres are in the Chesapeake Bay Critical Area, and
- 2.) 16.08 acres encompassing the Critical Area development envelope known as Rivendell Farm, # 04-120-033, necessary to create 4 single family lots and two open space parcels in the Chesapeake Bay Critical Area

The Public Hearing notice was published in the November 19, and 26 issues of the *St. Mary's Today* newspaper, a placard notification was placed on the property, and notices to adjoining property owners were sent out via certified mail.

Ms. Veith stated that Mr. Reeves submitted an application for a four-lot subdivision to subdivide his current farm. The application will exceed the Critical Area Growth density on that farm and on the parent tract as it existed in 1985. In reviewing the project, it was discovered that density has already been exceeded by creating four lots. There were 74.2834 acres on the original parent tract; 80 acres are required to create four lots.

Ms. Veith reviewed the Staff Report and maps that had been previously provided to the Board of County Commissioners and offered the following clarifications:

- The actual request for growth allocation amount is 37.3 not 31.9.
- Acreage is 78.99 on the drawing, but is closer to 74 (total Critical Area acres).
- There are currently six (not four) existing homes, if approved, will be an additional four homes. Density would be approximately nine acres per dwelling.

Ms. Veith provided specifics regarding compliances and non-compliances with the Comprehensive Growth Plan relative to non-farm residential development being at a scale consistent with rural character in the area; (determined scale to be inconsistent with this requirement) and major sub-division development compatibility with preservation of rural community character; (discussion ensued regarding compliance and non-compliance for this requirement). This detail is provided in Section V, “Analysis” of the Staff Report.

The Planning Commission recommends, as detailed in Section III, “Planning Commission Recommendation” in the Staff Report, that the Board of County Commissioners approve the award of growth allocation to resolve the map error and

deny the request for the 16.08 acre development of the proposed four lots and two open space parcels in the Chesapeake Bay Critical Area.

Public Comments:

Herbert N. Redmond, Jr., 22335 Exploration Drive, Lexington Park, MD 20653

Mr. Redmond is a licensed surveyor, representing Mr. Reeves. Mr. Redmond provided detail testimony supporting the request and submitted various pictures of the property during the Public Hearing. Mr. Redmond provided a walk-through of previously provided property plat drawings and provided testimony regarding the property and proposed lots (site location and environmental information) and the requested growth allocation, including: rationale for the proposed new pier location with trail access; screening and privacy (berm development); drainage (dwelling versus open field); and positive economic impact relative to property taxes.

Tommy Follin, 24799 Maddox Rd., Chaptico, MD 20621

Mr. Follin reviewed the Board of County Commissioners mission statement and referenced a recent article in the County Times newspaper regarding a decrease in County water levels (re: Metropolitan Commission). Mr. Follin presented testimony protesting the request, citing concerns with the impact it will have on his farm and his way of life; specifically the additional and location of the lots (rural preservation), the proposed pier (there's an existing old road and area more suitable), trees being planted along the east side of his property (shade will have an adverse impact on existing crops), and the impact constructing a new road will have on his farm and his privacy.

Robert Boyd, 24850 Lucie Beall Lane, Chaptico, MD 20621

Requested clarification regarding the number and location of houses on the property; four or six? Ms. Veith responded that there are four lots that were created in the critical area (one added on Elizabeth Reeves' property); there are a total of six lots on Mr. Reeve's farm. There are four existing homes; two homes were on the original farm; and clarified that there will be an additional seven new homes (in conjunction with this request). Mr. Boyd presented testimony regarding his concerns relative to flooding, privacy (community pier location relative to his home and his property).

Daniel Guenther, Esq. Attorney

Stated that at the request of his clients, Mr. & Mrs. Reeves, he has reviewed virtually every ordinance, rule, regulation, etc., pertaining to this property, and feels his clients are in compliance with said ordinances, rules, and regulations. Mr. Guenther stated sections in the Comprehensive Plan and stated his client's compliance. Mr. Guenther provided a copy of Code, Section 8-1808.1. "Growth allocation in resource conservation areas".

Commissioner Raley asked for clarification from Ms. Veith, who replied that there are 74 acres (critical area); there are four dwellings on those 74 acres. All of the lots that are there now (4) are "buildable lots." If the growth allocation is approved, there will be four additional, building lots.

It was further stated that the recommendation of staff to the Planning Commission was approval for correcting the error and mild support for the request for the additional growth allocation. It was reiterated that the Planning Commission recommends approval for the growth allocation to correct the error and recommends denial for the additional growth allocation.

As a result of the testimony received by the Planning Commission and the field visits, Commissioner Raley asked if staff holds the same recommendation for the Board as they did for the Planning Commission. Ms. Veith responded no, clarifying that staff does not feel the request fully meets the Comprehensive Plan goals for protection of rural character or farming in a rural area, and for that reason, recommended denying the new lots.

Commissioner Russell closed the Public Hearing and stated that the record will remain open for ten days. The public may submit written comments to the Department of Land Use and Growth Management.

Commissioner Raley moved, seconded by Commissioner Jarboe, to go into Executive Session for the purpose of discussing matters relating to Litigation and Real Property Acquisition.

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
George Forrest, County Administrator
Christy Chesser, County Attorney
Denis Canavan, Director, Land Use and Growth Management
Donna Gebicke, Administrative Assistant to the BOCC, Recorder
Authority: Article 24, Section 4-210(a)8
Time Held: 1:30 – 1:40 pm
Action Taken: The Commissioners discussed pending litigation matter.

Real Property Acquisition

Present: Commissioner Francis Jack Russell, President
Commissioner Kenneth R. Dement
Commissioner Lawrence D. Jarboe
Commissioner Thomas A. Mattingly, Sr.

Commissioner Daniel H. Raley
George Forrest, County Administrator
Christy Chesser, County Attorney
Denis Canavan, Director, Land Use and Growth Management
George Erichsen, Director, Dept. of Public Works
Liz Passarelli, Real Property Manager
Donna Gebicke, Administrative Assistant to the BOCC, Recorder
Authority: Article 24, Section 4-210(a)11
Time Held: 1:40 pm – 2:18 pm
Action Taken: The Commissioners discussed property acquisition matter.

Commissioner Raley moved, seconded by Commissioner Mattingly, to direct staff to proceed as discussed in Executive Session with regards to Litigation matter. Motion carried 4-1, with Commissioner Jarboe voting nay.

FY 2008 BUDGET WORK SESSION

The meeting was adjourned and the Board reconvened to hold a FY2008 Budget Work Session.

ADJOURNMENT

The meeting adjourned at approximately 5:00 pm.

Minutes Approved by the Board of County Commissioners on _____

Betty Jean Pasko, Senior Administrative Coordinator