

**ST. MARYS COUNTY  
BOARD OF COUNTY COMMISSIONERS MEETING  
CHESEAPEAKE BUILDING  
Tuesday, February 3, 2009**

**Present:** Commissioner President Francis Jack Russell  
Commissioner Kenneth R. Dement  
Commissioner Lawrence D. Jarboe  
Commissioner Thomas A. Mattingly, Sr.  
Commissioner Daniel H. Raley  
John Savich, County Administrator  
Betty Jean Pasko, Sr. Administrative Coordinator (Recorder)

**CALL TO ORDER**

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

**APPROVAL OF CHECK REGISTER**

**Commissioner Raley moved, seconded by Commissioner Jarboe, to authorize the Commissioner President to sign the Check Register for checks dated February 3, 2009, 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 January 27, 2009, as presented. Motion carried 5-0.**

**COUNTY ADMINISTRATOR**

1. Draft Agendas for February 10 and 17, 2009
2. **College of Southern Maryland and Dept. of Economic and Community Dev.**  
*(Dr. Bradley Gottfried, President, CSM; Alan Kutz, VP, Economic and Community Dev. Institute, CSM; Brian DuBoff, Regional Dir., CSM; Bob Schaller, Dir., DECD; and Hans Welch, Mgr., Business Dev., DECD)*

**Commissioner Raley moved, seconded by Commissioner Dement, to receive the Small Business Development Center FY2008 Annual Report for St. Marys County; and to approve and authorize the Commissioner President to sign the Memorandum of Understanding with the College of Southern Maryland on behalf of its Maryland Small Business Development Center, committing \$16,500 in County funding for FY2009 to defray costs associated to the program, which**

**provides business counseling services to existing and new business owners. Motion carried 5-0.**

**3. Dept. of Finance** (*Elaine Kramer, CFO*)

**Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Budget Amendment to closeout the unused allocation budgeted for the Lexington Park Lions Club in the amount of \$1,500 to the Commissioners Emergency Reserve. Motion carried 5-0.**

**Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Budget Amendment realigning the Finance accounts to reduce the Finance Administration/Budget supply account and increase the Copy Center supply account in the amount of \$3,000. Motion carried 5-0.**

**4. Office of the County Attorney** (*Liz Passarelli, Real Property Mgr.; and Elaine Kramer, CFO*)

**Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Budget Amendment in the amount of \$25,000 which will establish the new FY2009 capital project PF0905 Armory Building, for the purpose of transfer of title. Motion carried 5-0.**

**5. Dept. of Public Works & Transportation** (*George Erichsen, P.E., Director*)

**Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Budget Amendment reducing the Land Acquisition Project, PS0807, by \$982,200 and returning funds to the FIN09 Capital Reserve; and to approve and authorize the Commissioner President to sign the Budget Amendment transferring \$982,200 from the FIN09 Capital Reserve to the Transfer Station project, SW0601, as submitted by staff. Motion carried 5-0.**

**Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the Budget Amendment, in the amount of \$56,000, to close out completed project PF0802, Old Health Department Demolition project, to the FIN09 account. Motion carried 5-0.**

**Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Budget Amendment, in the amount of \$17,493, to close out completed project PF0304, Courthouse Humidity project, to the FIN09 account. Motion carried 5-0.**

**Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Public Works Agreement**

**Addenda items listed as A. through E. on Mr. Erichsens memo dated January 28, 2009. Motion carried 5-0.**

Motion specifically pertains to the following Public Works Agreement Addenda:

- A. Forrest Farm Subdivision, Section 3, Phases 9 and 10, located in the 3<sup>rd</sup> Election District, with an Expiration Date of July 1, 2009.
- B. Brooks Knolls Subdivision, Section 1, located in the 3<sup>rd</sup> Election District, with an Expiration Date of November 1, 2009.
- C. Locust Glen Subdivision, Section 1, located in the 8<sup>th</sup> Election District, with an Expiration Date of September 1, 2009.
- D. Primrose Park of Wildewood Subdivision, Phase 1, located in the 8<sup>th</sup> Election District, with an Expiration Date of March 1, 2010.
- E. Primrose Park of Wildewood Subdivision, located in the 8<sup>th</sup> Election District, with an Expiration Date of March 1, 2010.

**Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and sign the six resolutions listed as F. and G. on Mr. Erichsens memo dated January 28, 2009. Motion carried 5-0.**

Motion specifically pertains to the following Resolutions:

- F. Accepting Pacific Drive, Midway Drive, and Columbus Drive, located in the Willowgate Subdivision, 8<sup>th</sup> Election District, in the Countys Highway Maintenance System, and posting 25-mph speed limit and stop signs for adopted roads.
- G. Accepting Greens Crossing Court and Kayak Court, located in the Greens Rest Farm Subdivision, Section 5, 2<sup>nd</sup> Election District, in the Countys Highway Maintenance System, and posting 25-mph speed limit and stop signs for adopted roads.

**6. Dept. of Public Safety** (*Dave Zylak, Dir.;* *Mark Pettit, Technical Services Coord.*)

**Commissioner Mattingly moved, seconded by Commissioner Dement, to approve the FFY 2009 Hazardous Materials Emergency Preparedness (HMEP) Grant and authorize the Commissioner President to sign the Memorandum of Agreement with the Maryland Emergency Management Agency regarding the FFY 2009 HMEP Grant Program, and to sign the related Budget Amendment increasing the project budget by \$1,500 in accordance with the agreement and the actual award amount. Motion carried 5-0.**

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

Items deferred.

**8. Office of the County Administrator** (*John Savich, County Administrator*)

**Commissioner Mattingly moved, seconded by Commissioner Raley, to approve and authorize the Commissioner President to sign employment contracts for**

**Christy Holt-Chesser, County Attorney.** Motion was withdrawn in favor of one motion that includes all of the contracts vs individual motions for each contract.

**Commissioner Mattingly moved, seconded by Commissioner Raley, to approve and authorize the Commissioner President to sign employment contracts for the following positions: Christy Holt-Chesser, County Attorney; Karen Everett, Public Information Officer; George Erichsen, Director, Department of Public Works and Transportation; Lori Jennings-Harris, Director, Department of Aging; Robert Kelly, Director, Information Technology; Elaine Kramer, Chief Financial Officer; Phillip Rollins, Director, Department of Recreation and Parks; John Savich, County Administrator; Robert Schaller, Director, Department of Economic and Community Development; Susan Sabo, Director, Department of Human Resources; and David Zylak, Director, Department of Public Safety. Motion carried 4-1 (Commissioner Jarboe voted no).**

Commissioner Jarboe said that his vote was not because of a personal concern with any staff member. Stating his interest in consolidation of departments, Commissioner Jarboe suggested that employees be allowed to continue without a contract and that the focus should be placed on government consolidation.

**PUBLIC HEARING: TO CONSIDER A SUPPLEMENTAL GRANT APPROPRIATION IN THE AMOUNT OF \$997,110 FOR TWO MD DEPT. OF TRANSPORTATION GRANTS TO FUND THE DESIGN AND CONSTRUCTION OF A BUS SHELTER TO HOUSE ST. MARYS TRANSIT SYSTEM BUSES (FINANCE DEPT.)**

Present: Elaine Kramer, CFO  
George Erichsen, P.E., Director, DPW&T

The public hearing commenced at approximately 10:10 AM. Ms. Kramer stated that information about the grants was presented to the BOCC on January 20, 2009, and that the public hearing was advertised in the January 23 and 30, 2009, editions of the Enterprise newspaper.

The purpose of the public hearing is to consider a proposed ordinance for supplemental appropriations to the Countys FY09 Capital Budget, specifically relative to the Department of Public Works and Transportation, to reflect grant awards totaling \$997,110 from the Maryland Transit Administration designated for design and construction of a Bus Shelter to house St. Marys County Transit System Vehicles.

The total project budget for the Bus Shelter is funded by the following sources: Federal Grant \$886,320; State Grant, \$110,790; and existing County Share of \$110,790.

The STS Bus Shelter will be a one-story, pre-engineered shell structure of 10,800 square feet (maximum) designed to accommodate a minimum of 24 STS buses adjacent to the St. Andrews Maintenance Facility located at 44829 St. Andrews Church Road in

California, Maryland. The facility will provide both weather protection and a consolidated location for electrical service for engine block heaters and is subject to approved Board of Appeals Conditions CUAP #05-132-050.

Ms. Kramer and Mr. Erichsen clarified that the total County Share amount (\$110,790) was not in the budget. The amount available (\$78,200) was previously budgeted for a different project. The difference of \$32,590 will come from the FIN09 transfer taxes account.

The hearing was opened for public comment at 10:15 AM. There were no public comments. Commissioner President Russell closed the public hearing at 10:16 AM and set the ten day open record period.

### **OFFICE OF THE COUNTY ATTORNEY: UPDATE ON THE BOCCS 2009 LEGISLATIVE PROPOSALS**

Present: David Weiskopf, Deputy County Attorney

Mr. Weiskopf provided a summary of the actions taken by the Delegation on the countys 2009 legislative proposals:

#### **Proposal # 10**, submitted by Mr. 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

**Status:** Supported by the Delegation. Reading scheduled for this week, Thursday, February 5<sup>th</sup>, at 1:00 PM.

**Proposal # 6, submitted by the 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.

**Status:** Supported by the Delegation. Reading scheduled for February 12<sup>th</sup>, at 11:00 AM.

**Proposal # 8, submitted by the Alcohol Beverage Board of St. Marys County**

To increase fine for alcoholic beverage sales violations from \$500 to \$1,000.

**Status:** Legislation is being drafted, but final action is still pending.

**Proposal # 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.

**Status:** The Delegation has delayed the introduction of this legislation and has requested a meeting with METCOM to discuss the legislation and other concerns that have arisen.

The Delegation agreed with the Commissioners that the three proposals submitted by Mr. Mike Thompson (proposal numbers 1, 2, and 3) regarding energy solutions were of a statewide nature and should be addressed at that level. The two bond bill requests (numbers 4 and 5) will not be offered this year by the Delegation, but individual members are able to sponsor any of these requests on an individual basis. The Delegation received notice from St. Marys Hospital of its intent to table the request (number 9) for county financing consideration for its Centennial project.

Mr. Weiskopf said the Office of the County Attorney is receiving a lot of Bills that will affect St. Marys County. Those Bills are being forwarded to the appropriate departments. Commissioner Raley requested a summary of those Bills.

**RECESS**

The Board recessed at approximately 10:23 AM and reconvened at 10:30 AM.

**DEPT. OF LAND USE AND GROWTH MANAGEMENT (LU&GM): DECISION ON PROPOSED REZONING FOR ST. MARYS CROSSING PROPOSED PLANNED UNIT DEVELOPMENT (PUD) AND THE PROPOSED DEVELOPERS RIGHTS AND RESPONSIBILITIES AGREEMENT (DRARA) FOR ST. MARYS CROSSING PROPOSED PUD**

Present: Christy Holt-Chesser, County Attorney  
Phil Shire, Acting Director, LU&GM

The following support staff was also in attendance: Mr. John Groeger, Deputy Director, Dept. of Public Works and Transportation, and Mr. Bob Bowles, Planner IV, Development Services, LU&GM.

Re: Applications #06-14500004, St. Marys Crossing Planned Unit Development (PUD), and #07-14600001, St. Marys Crossing Developers Rights and Responsibilities Agreement (DRARA)

Ms. Chesser stated that the Board of County Commissioners (BOCC) held a public hearing on September 9 and 16, October 7, and November 18, 2008, and a work session was held on October 18, 2008. Testimony was provided by the applicant, staff, and public, and many documents and exhibits were received. The public hearing was closed on November 18, 2008, and the record remained open for an additional ten (10) days.

Ms. Chesser noted that Zoning Ordinance 44.4 provides that the Board of County Commissioners may establish such conditions and require such modifications as necessary to assure compliance with all applicable and adopted standards and regulations, to maintain the purposes and provisions of the Comprehensive Plan, and to protect public facilities and utilities when it makes a decision on a Planned Unit Development.

Two sets of options to approve with conditions were presented for the Boards consideration; i.e., approval with conditions from staff and approval with conditions acceptable to the applicant as presented at the November 18, 2008, public hearing. Ms. Chesser added that the Board may also consider directing staff to include additional conditions; returning the plans to the Planning Commission (considering how the plans have evolved; e.g., changes to the school site, access roads, and additional discussion and information with the BOCC); tabling their decision (to allow for additional time); or, the Board can deny the application.

Ms. Chesser clarified a phrase contained in each of the draft motions: *that (the Boards) findings be made subject to the agreement of the Applicant to and the inclusion in the development plan of certain conditions*, meaning that if the BOCC decides to approve the plan for the development with conditions, those conditions will be subject to the applicants agreement and plan revision to include those conditions. The revised plan will then be reviewed by LU&GM (and an ordinance will be prepared and presented for BOCC signature). If the conditions proposed are not acceptable to the applicant, it would be documented and the case will not move forward.

Ms. Chesser added that communication was received yesterday from the attorney for the applicant regarding additional conditions, if imposed by the BOCC, that would be acceptable to the applicant. Those conditions are relative to the school site, traffic mitigation fees, the private road, and the pond. If the Board proposed a condition to the school site, Ms. Chesser said that she would need to review further before she could make a recommendation.

Commissioner Raley questioned the additional communications after the open record period was closed. Ms. Chesser said that the information received was not evidence, or anything new. It was a proposal regarding conditions the Board could consider based on the evidence before them.

Mr. Shire reviewed two memos, dated January 29 and 30, 2009, which contained information based upon only that testimony received on or before the close of the open record period (it does not contain any of the information just covered by Ms. Chesser).

The January 30, 2009, memo, prepared by Mr. Bob Bowles, pertains to the DRARA. Mr. Shire called attention to page one of the memo and the draft motion, and again emphasized the information is based on testimony received on or before the close of the open record period, i.e., November 28, 2008, and the school was not a part of the consideration for PUD approval.

The DRARA (Developers Rights and Responsibilities Agreement) provides means for the Developer to enter into an agreement with the Board of County Commissioners, for the purpose of land preservation, and for mitigation of traffic and school seats. Mr. Shire said the proposal was drafted before the Annual Growth Policy was adopted. Now, school seats will be determined, like with any other project under review, in compliance with the Annual Growth Policy, and traffic can be mitigated within the conditions of the Planned Unit Development Plan, both pursuant to the Comprehensive Zoning Ordinance, Chapter 70 Adequate Public Facilities. Land preservation (TDRs) can be addressed in accordance with the Comprehensive Zoning Ordinance, Chapter 44 Planned Unit Development. Staff concluded that the DRARA is not really needed and the items it addresses could be addressed in the development plan.

Commissioner Mattingly elaborated that a requirement for the school site, as part of the PUD approval, can be done outside of the DRARA. Mr. Shire concurred cannot mitigate school seats (because of the donation) but could perhaps give something else in return, such as land preservation credits. The school site commitment for Wildewood was done in conjunction with the PUD.

Commissioner Raley questioned the differences between the PUD and the Annual Growth Policy, relative to timing. Mr. Shire responded that the timing of the phasing plan for the PUD is geared to the Annual Growth Policy; the PUD is not deviating from the Annual Growth Policy. It was stated deviations would be relative to more flexibility with the design of roads and credit for workforce housing (allowed through the PUD



process). However, there is potential for substantial difference between the PUD section and with TDR (Transferable Development Rights) requirements. Mr. Shire noted that the PUD section of the zoning ordinance provides that TDRs may be required. Mr. Shire additionally noted that the proposed private road running to Old St. Andrews Church Road could not be considered to remain a private road for this development unless it is part of a PUD. Mr. Shire concurred with Commissioner Raleys statement that a project of this size, at some point during its development, would have to have (a minimum of) two access points. Mr. Shire said the subdivision regulations would have an access point provided for each 75 lots, but that is not worded strongly as a requirement. Commissioner Raley then referred to the St. Marys Crossing timeline, indicating the proposal was first presented in 2004 at a TEC (Technical Evaluation Committee) meeting, to do a change to the water and sewer plan (application for a regular subdivision) and the project just evolved.

Mr. Shire continued by reviewing the differences between the two sets of Conditions (included in Mr. Bowles 1/30/09 memo), referring to Attachment A as 25 Conditions that have been deemed acceptable to the Applicant, and Attachment B as 22 Conditions evolved and generated throughout the Planning Commission hearing process.

#### Conditions differences discussed by Mr. Shire

1. Applicants Condition # 3 - Applicant proposes to upgrade and deed and dedicate Johnson Pond Lane to the County as a public road for inclusion in the Countys Highway Maintenance System, but it may be marked by the Owner for use as an emergency or secondary access

Staff recommends it to be a public road (if its dedicated to the County, its a County road) with no restrictions on usage. Mr. Shire said hes not clear if the applicant is intending to have the road closed or marked with a sign.

2. Applicants Condition # 4 - Applicant proposes that the private roadway connecting the eastern part of the property connecting with Old St. Andrews Church Road be improved to Public Standards and remain private.

Staff maintains that this road is to be a public road, designed to public road standards and dedicated to the County. The developer is proposing that road be improved (to public road standards) but turned over to Home Owners Association for private maintenance.

3. Applicants Condition # 10 - Applicant proposes no improvements to Old St. Andrews Church Road (loop back to Countys transfer stations).

Throughout the review process, staff recommended improvements to the loop road, especially at the western entrance; no by-pass lane (heading from Rt. 4 to Rt. 5, left turn); safety implications.

Commissioner Mattingly questioned access options (extending gravel road through wooded area, single point of access to Rt. 4). Mr. John Groeger responded there is a wetlands issue (stream).

4. Applicants Condition # 11 - Applicant proposes to modify the Development Plan, Chapter 4 to provide 30% of the front faade of any structure with brick, stone, stucco or cement board.

Staff recommends that 50% of the front faade of any structure with brick, stone, stucco or cement board (townhouses / apartments), with the exception of the single family detached residential units.

5. Applicants Condition # 18 - Applicant proposes a \$3,000 mitigation fee per lot, to be used at the Board of County Commissioners discretion for traffic mitigation and/or land preservation.

Staff recommends that \$3,000 per lot for 868 lots will total \$2.6 million dollars and will not be sufficient to both mitigate traffic and provide land preservation in terms of TDRs. If this entire sum is used for land preservation, it will be the equivalent of 130 140 TDRs, which is significantly less than staffs suggestion for one (1) TDR for every third unit. Mr. Shire said the developers proposal of \$3,000 per lot will yield less than the min 157 TDRs (one for every three units after backing out the base density and affordable housing).

Commissioner Raley said it was his understanding that prior to submission of this as a PUD, the applicant received grandfather rights for 333 lots (subdivision in RL zone). Additionally, via the PUD process, 150 workforce housing credits could be received (recommendation from taskforce).

Mr. Shire summarized of the five conditions discussed, three pertain to roads, one pertains to the faade, and the other pertains to mitigation fees.

Commissioner Mattingly requested clarification on the statement contained in the St. Marys Crossing PUD Motion for Approval with Conditions from Staff Report; #14 Mitigation (three scenarios): may be used for any County transportation use as deemed appropriate. Discussion ensued regarding TDRs (requirements and timing) and mitigation options.

Regarding the stoplight, there was discussion that staff has remained constant with the condition to install a four-way light, to be installed and approved by the State Highway

Administration prior to the issuance of the first phase of residential development. Commissioner Mattingly questioned if a roundabout was considered. Mr. Groeger responded that it is a state intersection and the county feels the traffic light is the better solution the state will ultimately decide. Ms. Chesser added that the condition language can be strengthened (staffs language is more descriptive than the applicants).

Commissioner Mattingly asked Mr. Shire if he feels there has been enough new information and changes that have not been thoroughly resolved to warrant another review by the Planning Commission. Mr. Shire did not indicate whether or not he felt the PUD should be returned to the Planning Commission for another review. Mr. Shire said that he thinks the biggest change is with the school site. He added that they are closer to closure on some of the road improvements. Mr. Shire concluded that the two biggest items are with the school site and making the eastern private road a public County road.

Final discussion comments:

Commissioner Raley:

Request has been in the process for some time (2004, regular sub-division, change to water and sewer)

Planning Commission (PC) hearing on PUD in 2007. The PC voted against the DRARA 5-1-1 (one abstention) and against the PUD 5-0-1 (one abstain). PC recommendations carry significant weight.

Considering persons property rights

Significant characteristics of the property in question: in development district, RL zoning, easement access to sewer

Concern with TDR, land preservation, and traffic issues

Commissioner Jarboe:

Voted against the easement during the previous Board. Water/sewer should have come along St. Andrews Church Road.

Voted against development district inclusion.

Both concessions are huge, will be consistent with vote

Commissioner Dement indicated that he is considering and weighing all input.

Commissioner Mattingly:

Lot of information, negotiations back and forth

Commented regarding property location (in development district), zoning (error was corrected), and density

Citizen that did not support changed her mind, after hearing information, and believes it benefits the County to approve.

Opportunity to ensure a component of workforce housing.

Sewer easement school and access to neighboring communities

Traffic major comment issue, supports traffic light

Access to rear of property approve road emergency access major importance to me.

MD Route 4 improvements safety issue  
One school site, ultimately two schools benefit to County considering growth in Lexington Park and Hollywood, continue to see a reduction in density.  
Project has evolved significantly, favors sending back to Planning Commission, Agree with majority of staff recommendations  
Issue with TDRs unresolved, require donation of school site to be included  
This is the first major PUD since First Colony  
Will have to meet State environmental requirements

Commissioner Russell:

St. Marys Crossing well vetted through the Planning Commission  
Shares concern with traffic

**Commissioner Mattingly moved, seconded by Commissioner Raley, that the Board of County Commissioners return the Planned Unit Development for St. Marys Crossing to the Planning Commission for consideration of additional facts and redesign of the project and additional propers that have been made by the applicant for further recommendations, at a later date, to the BOCC for approval. Motion failed 1-4.** Commissioners Raley, Jarboe, Russell, and Dement voted against the motion.

Commissioner Mattingly reiterated his comments regarding the amount of change to the project since it was reviewed by the Planning Commission.

Commissioner Raley commented regarding the amount of time and expense the applicant has spent on the project and even if the project goes back to the Planning Commission, there will still be issues with TDRs, traffic, and roads.

**Commissioner Raley moved, seconded by Commissioner Dement, in the matter of ZPUD #06-145-004, St. Marys Crossing, having considered the recommendation of the Planning Commission, the testimony, documents, and public comments presented during the Boards public hearings on September 9, September 16, October 7, and November 18, 2008, the work session on October 28, 2008 and the comments received during the open record period for this matter, and having accepted the staff reports submitted in this matter, I move that pursuant to Chapter 44.4.2.b, of the Comprehensive Zoning Ordinance number 02-01 the following findings be made:**

- 1. The proposed development does not comply with the purposes of the PUD district as set forth in this section and does not adequately provide for the safety, convenience and amenity of the future residents of the development and the neighboring area;**
- 2. The proposed development does not comply with standards set forth in the Zoning Ordinance and is not compatible with the surrounding neighborhood;**
- 3. The proposed vehicular and pedestrian transportation systems are not adequate and efficient;**

4. **The proposals including restrictions, covenants agreements or other documents, that show the ownership and method of assuring perpetual maintenance of these areas intended to be used for recreational or other common or quasi-public purpose are not adequate and sufficient;**
5. **The proposed provisions to be made to ensure essential community facilities and services for this type of development under consideration, such as schools, recreation areas, police and fire protection be reasonably accessible to the development are not adequate.**

**And, noting that the proposed development does not comply with the purposes of the Planned Unit Development district, is not in conformance with the Comprehensive Plan and is not compatible with the surrounding neighborhood, and; Specifically finding that: the Applicants proposal to allow the private roadway connecting the eastern part of the property to Old St. Andrews Church Road to remain as a private road does not adequately provide for the safety, convenience and amenity of the residents of the development and the neighboring area and is not compatible with the surrounding neighborhood; and the Applicants proposal that it not be required to make improvements to the Old St. Andrews Church Road does not adequately provide for the safety, convenience and amenity of the residents of the development and the neighboring area and is not compatible with the surrounding neighborhood, and that the Applicants proposal to pay a \$3,000 mitigation fee for traffic and rural preservation to offset the deficiency in the public roads and further the objectives of rural preservation does not adequately provide for the safety, convenience and amenity of the residents of the development and the neighboring area and is not compatible with the surrounding neighborhood, and does not adequately further the purposes and provisions of the Comprehensive Plan, and that the Applicants proposal will create an adverse impact to the road system which is not adequately mitigated by the PUD plan and applicants additional proposed conditions, and the Applicants proposal would increase density without the purchase of TDRs. TDRs may be required as part of a Planned Unit Development, and the increase in density for this PUD without the use of TDRs does not protect resource areas and does not adequately further the purposes and provisions of the Comprehensive Plan. And based on these findings, I move that the proposed Planned Unit Development, Residential (PUD-R) Floating Zone, be denied as submitted here today. Motion carried 4-1. Commissioner Mattingly voted no.**

Commissioner Dement commented that due to the number of concerns, the applicants proposed changes should have been brought forward sooner and that his primary objective is to control growth.

Ms. Chesser said since the BOCC denied the Planned Unit Development, there will be no need to act on the Developer Rights and Responsibilities Agreement.

## **RECESS**

The Board recessed at 11:43 AM and reconvened at 11:48 AM.

## COMMISSIONERS TIME

The Commissioners highlighted upcoming events, events attended over the past week and personal interest items. Commissioner Jarboe reviewed the property tax assessment appeal process and directed citizens to the countys website at [www.stmarysmd.com](http://www.stmarysmd.com), select Services and then Assessments and Taxation, for more information.

## MOTION TO ENTER INTO EXECUTIVE SESSION

**Commissioner Raley moved, seconded by Commissioner Dement, to enter into Executive Session for the purpose of discussing Real Property Acquisition, specifically, acquisition of property for future FDR Boulevard. Motion carried 5-0.**

## EXECUTIVE SESSION

### Real Property

Present: Commissioner Francis Jack Russell, President  
Commissioner Kenneth R. Dement  
Commissioner Lawrence D. Jarboe  
Commissioner Thomas A. Mattingly, Sr.  
Commissioner Daniel H. Raley  
John Savich, County Administrator  
Christy Chesser, County Attorney  
Liz Passarelli, Real Property Manager  
George Erichsen, Director, Dept. of Public Works &  
Transportation  
Allen Settle, Engineering Technician, DPW&T  
Donna Gebicke, Recorder

Authority: Article 24, Section 4-210(a)11  
Time Held: 12:05 pm 12:35 pm  
Subject Discussed: Acquisition of property for future FDR Blvd.

## TOUR AND OVERVIEW OF FDR BOULEVARD PROJECT

At approximately 1:30 PM, the BOCC departed the Chesapeake Building for bus tour and overview of the FDR Blvd. Project. Staff members from Department of Economic and Community Development, Department of Public Works and Transportation, Department of Land Use and Growth Management, and Department of Recreation and Parks also participated in the tour. The tour began in the Wildewood area and proceeded along completed and unfinished sections ending in Lexington Park.

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

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Betty Jean Pasko, Sr. Admin. Coordinator (Recorder)