

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
GOVERNMENTAL CENTER
Tuesday, July 19, 2005**

Present: Commissioner President Thomas F. McKay
Commissioner Kenneth R. Dement
Commissioner Lawrence D. Jarboe
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley
George G. Forrest, County Administrator
Donna Gebicke, Administrative Assistant (Recorder)
Kate Mauck, Senior Administrative Coordinator (Recorder)

Kate Mauck recorded the following meeting minutes:

CALL TO ORDER

The meeting was called to order at 9:09 a.m.

APPROVAL OF CHECK REGISTER

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

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve the minutes of the Commissioners' meeting of Tuesday, July 12, 2005, as amended. Motion carried 5-0.

INTRODUCTION OF NEW DEAN

Dr. Elaine Ryan, President of the College of Southern Maryland, introduced the new Dean of the Leonardtown Campus, Dr. Frederico "F.J." Talley, to the Commissioners.

COUNTY ADMINISTRATOR

1. Draft Agenda for July 26 and August 26, 2005
2. **State's Attorney's Office** (*Michael Stamm, Deputy State's Attorney*)

Commissioner Dement moved, seconded by Commission Mattingly, to approve and authorize the Commissioner President to sign revised State of Maryland, Department of Human Resources, Child Support Enforcement Administration Cooperative Reimbursement Agreement. Motion carried 5-0.

Donna Gebicke recorded the following meeting minutes:

3. Circuit Court

Present for item a: Bill Tench, Court Administrator

- a. Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and accept Law Library Supplemental Grant Award and authorize the Commissioner President to sign related Budget Amendment in the amount of \$20,000. Motion carried 5-0.**

Present for item b & c: Teresa Weeks, Senior Legal Assistant

- b. Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign revised State of Maryland, Department of Human Resources, Child Support Enforcement Administration Cooperative Reimbursement Agreement. Motion carried 5-0.**
- c. Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to accept MACRO Grant Agreement of \$10,000 and sign the related Budget Amendment. Motion carried 5-0.**

4. Community Development Corporation and Department of Economic and Community Development (*Robin Finnacom, Executive Director, CDC; John Savich, Director, DECD*)

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign Applications from the Department of Housing and Urban Development for Economic Development Initiative (EDI) funds in the amount of \$240,560, and an application in the amount of \$496,000, for the land acquisition and demolition of the Lexington Manor property. Motion carried 5-0.

5. Department of Economic and Community Development (*Donna Sasscer, Agriculture Manager; John Savich, Director*)

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign Release Agreement for the St. Mary's County Agriculture Land Preservation Program with Mr. Fastnaught. Motion carried 5-0.

6. Finance Department (*Jeannett Cudmore, Deputy Director*)

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and sign Resolution authorizing the reapplication of the Public Facilities and

Refunding Bonds of 2003 to Other County Projects in the amount of \$6,748 and approve and sign Resolution to authorize the reapplication of the consolidated Public Improvement Bonds of 2005 to Other County Projects in the amount of \$280,046. Motion carried 5-0.

7. Department of Land Use and Growth Management

(Present for item a: Phil Shire)

- a. **Commissioner Mattingly moved, seconded by Commissioner Raley, to approve and authorize the Commissioner President to sign Transfer of Development Rights for Case File #03-120-022, Leonardtown Farms. Motion carried 5-0.**

(Present for item b: Jeff Jackman, Senior Planner)

- b. **Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and sign Resolution to amend Resolution W/S 92-01 to assign an EDU to the property of Michael Evans described as Parcel B within Parcel 136 of Tax Map 69 in the Ninth Election District. Motion carried 5-0.**

(Present for item c: Jeff Jackman, Senior Planner; Teresa Wilson, Historic Preservation Planner; Historic Preservation Commission members)

- c. **Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign grant contract with Maryland Historical Trust for a Scenic and Historic Roads Survey. Motion carried 5-0.**

Commissioners Mattingly and McKay, respectively, requested that proposed text amendments regarding mandatory connection to water and sewer and right to farm legislation be included on next week's agenda.

FIRST READING OF PROPOSED TEXT AMENDMENT FOR THE PURPOSE OF AMENDING THE PUBLIC HEARING NOTIFICATION REQUIREMENTS

Commissioner President McKay presented a first reading of a proposed Zoning Ordinance Amendment that would require notice by certified mail at least 15 calendar days before the public hearing to all property owners that may be affected on an application for any action that would change a property's Zoning District or alter the effective Base Density of any property in the County.

Commissioner Mattingly asked that the term "affected," be clarified to indicate that the requirement to notify applies only to those properties considered for change and to those properties that are directly adjoining the property considered for change.

In accordance with the Policy for amending the Comprehensive Zoning Ordinance, the proposed text amendment was remanded to the Department of Land Use and Land Growth Management for their comments and further progression through the amendment process.

COMMISSIONERS' TIME

Commissioner Jarboe

Request that staff provide copies of the minutes of the Board of County Commissioners meeting of July 12, 2005, to those citizens who wrote the Commissioners about the need for soccer practice fields. The minutes will clarify that the Board supported a variety of uses for the Charlotte Hall

property (the 40 acre site that contains new Northern Senior Center), including soccer practice fields.

Commissioner Raley

I had the occasion to help celebrate Lucy Wood's 80th birthday and want to reiterate my congratulations to her. She is a wonderful lady who has a great family. Attended the Eagle Scout ceremony for Zachary Stansfield. This is my 6th or 7th ceremony, and I'm always impressed by the amount of support the Eagle Scouts receive from family and fellow scouts. St. Mary's County has the highest concentration of Eagle Scouts relative to population in the entire country.

Happy Birthday to my grandson Zachary who is celebrating his first birthday on Friday.

Commissioner Dement

Wanted to send apologies to Joe and Angie Gass for not being able to join them at their farewell event. I wish them the best in their new endeavor.

Commissioner Mattingly

Want to encourage everyone to go on-line and vote for Sarah Raley and Mark Dale, a local couple participating in the *Today Show's* wedding competition.

Commissioner President McKay

Happy 75th Birthday to Glenn Bailey. I was sorry I had to miss his birthday celebration. Glenn has done many things for St. Mary's County.

PROPOSED ORDINANCE AMENDING THE ZONING MAP OF THE COMPREHENSIVE ZONING ORDINANCE TO CREATE AN HISTORIC

LANDMARK OVERLAY ZONE FOR ST. MICHAELS MANOR (Map 73, Grid 10, Parcel 37)

Present: Teresa Wilson, Historic Preservation Planner, Dept. of Land Use and Growth Mgmt.
James Grusholt, Sr., Member, Historic Preservation Commission
Harold Willard, Member, Historic Preservation Commission
Robert Gibbs, Member, Historic Preservation Commission

Teresa Wilson reported that the Board of County Commissioners conducted a public hearing on June 28, 2005, to receive public comment on an application to create an historic landmark overlay zone for St. Michael's Manor in Scotland, Maryland. No further testimony was received during the 10-day, written comment period.

Commissioner Dement moved, seconded by Commissioner Raley, to approve and sign the Ordinance applying the historic zoning overlay to the property known as St. Michael's Manor, located on Tax Map 73, Block 10, Parcel 37. Motion carried 5-0.

VOTE TO MOVE INTO EXECUTIVE SESSION

Commissioner Raley moved, seconded by Commissioner Dement, to move into Executive Session in order to discuss Personnel, to include boards and committees, as provided for in Article 24, Section 4-210(a)1. Commissioner Jarboe voted against the motion; all others voted in favor. Motion carried, 4-1.

EXECUTIVE SESSION

Personnel

Present: Commissioner Thomas F. McKay, President
Commissioner Kenneth R. Dement
Commissioner Lawrence D. Jarboe
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley
George Forrest, County Administrator
Delores Lacey, Appointments Secretary
Valerie Pilkerton, Asst. Appointments Secretary
Donna Gebicke, Recorder

Authority: Article 24, Section 4-210(a)1
Time Held: 10:55 am – 12:15 pm
Action Taken: The Commissioners discussed boards and committees.

ACTION FROM EXECUTIVE SESSION

Commissioner Mattingly moved, seconded by Commissioner Raley, to direct staff to proceed as discussed in Executive Session regarding boards and committees. Motion carried. 5-0.

Kate Mauck recorded the remaining meeting minutes:

**PUBLIC HEARING: DEPARTMENT OF LAND USE AND GROWTH
MANAGEMENT – PROPOSED AMENDMENT TO SECTION 61.3.1 AND 64.10.4
OF THE COMPREHENSIVE ZONING ORDINANCE (CZO) TO INCREASE
THE ALLOWED HEIGHT OF EXTERIOR LIGHTING FIXTURES**

Present: Denis Canavan, Director
Yvonne Chaillet, Planner III, Zoning Administration

The Board of County Commissioners conducted a public hearing on a proposed amendment to Sections 61.3.1 and 64.10.4 of the Comprehensive Zoning Ordinance to increase the allowed height of exterior lighting fixtures. The public hearing was properly advertised on June 29 and July 6, 2005, in *The Enterprise* newspaper. Staff outlined current lighting standards and the need for improved standards. Information regarding Planning Commission Resolution #05-16, which recommended adoption of the proposed amendments allowing an increase in the height of exterior lighting fixtures to 30 feet in all zoning districts was presented. Details on the background, analysis, and changes recommended were provided.

Commissioner President McKay opened the hearing for public testimony, with the following individuals speaking:

Jeff Hoinski – 4150 International Plaza, Fort Worth, Texas – Mr. Hoinski reported that he represents a commercial lighting business, which has installed lighting in approximately 300 districts coast-to-coast. Outlined existing specifications at 16-feet, including safety reasons for utilizing 30-foot lights, which would provide more uniform light distribution.

Roger Wright – Faison, Bethesda, Maryland – Mr. Wright reported that his company was the developer of First Colony and is presently the developer of South Plaza in California, Maryland. Faison is in favor of the change to 30-foot lighting, as it would be safer for customers.

John Parlett – Charlotte Hall – In favor of the amendment, as the 16-foot poles do not allow a large parking lot to be properly lit.

The Commissioner President closed the public hearing as no one else was present to speak. The record will remain open for written public comment for ten days, and the matter will then be placed on a future agenda for discussion and a final decision.

Commissioner Raley directed Mr. Canavan to provide a report on how the lighting change would or would not affect adjoining properties, and also to provide detailed information regarding lighting standards as set forth by the State of Maryland.

**PUBLIC HEARING: DEPARTMENT OF LAND USE AND GROWTH
MANAGEMENT – PROPOSED AMENDMENT TO SECTION 64.3.6 AND
SCHEDULE 64.3.1 OF THE COMPREHENSIVE ZONING ORDINANCE (CZO)
TO REDUCE THE REQUIRED NUMBER OF PARKING SPACES FOR OFFICE
USE**

Present: Denis Canavan, Director
Yvonne Chaillet, Planner III, Zoning Administration

The Board of County Commissioners conducted a public hearing on a proposed amendment to Section 64.3.6 and Schedule 64.3.1 of the Comprehensive Zoning Ordinance to reduce the required number of parking spaces for office use to four instead of six. The public hearing was properly advertised on June 29 and July 6, 2005, in *The Enterprise* newspaper. Staff reported that the Planning Commission met on May 23rd and provided a recommendation for approval, and outlined information presented to the Commissioners in a June 24, 2005, memorandum from Mr. Canavan.

The Commissioner President opened the hearing for public testimony, with the following individual speaking:

John Parlett – Charlotte Hall – Expressed support for the change in the text amendment. Stated that the current requirement for six parking spaces has caused consternation.

As no one else was present to speak, the Commissioner President closed the public hearing. The record will remain open for ten days for the submission of written public comment, and will then be placed on a future agenda for discussion and a final decision.

**CHAMBER OF COMMERCE – TRANSFERABLE DEVELOPMENT RIGHTS
(TDR) STUDY COMMITTEE: RECOMMENDATIONS RE THE ST. MARY’S
COUNTY’S TDR PROGRAM CONTAINED IN THE COMPREHENSIVE
ZONING ORDINANCE**

Present: John Parlett, Chamber of Commerce, TDR Study Committee
Joe Densford, Chair, Chamber of Commerce, TDR Sub Committee
Jim Spence, Agriculture Land Preservation Advisory Bd., TDR Study
Committee
Bubby Norris, Agriculture Land Preservation Advisory Bd., TDR Study
Committee
George Baroniak, Agriculture Land Preservation Ad. Bd., TDR Study
Committee
Shawn Day, Chamber of Commerce, TDR Study Committee

Committee Lisa Ledman, Department of Economic & Community Dev., TDR Study
Committee Donna Sasscer, Department of Economic & Community Dev., TDR Study
Committee Bill Scarafia, Chamber of Commerce
Denis Canavan, Director, Land Use and Growth Management
Jeff Jackman, Senior Planner, Land Use and Growth Management
Sue Vieth, Environmental Planner, Land Use and Growth Management

Mr. Parlett, along with members of the Board of County Commissioner-appointed TDR Study Committee presented recommendations regarding proposed changes to the Transfer of Development Rights program. The committee has been meeting consistently for several months and intends to continue meeting until the process is completed. The mission, objectives, and strategies of the TDR Study Committee were presented, along with detailed recommendations directed at helping to move rampant building in St. Mary's County away from the RPD and into the Lexington Park Development District and Leonardtown Development District.

A side-by-side detailed listing of the current TDR program and the recommended program involving variables was presented and discussed in detail. The committee reported that all recommendations are interrelated, and changing one item would adversely affect at least one other item.

The following direction was given by the Board of County Commissioners:

- *Staff directed to proceed quickly and aggressively through this process on TDR program changes so as to allow a final decision to be made by Commissioners no later than October/November of this year;*
- *Waiving of the text amendment fee for this matter will be considered;*
- *Mr. Canavan to take the RPD/TDR statistics chart and make a change in the current plan to show a sidebar illustrating a change of TDR's requiring five instead of three, in order to create a more accurate comparison;*
- *Asked TDR Study Committee to address the issue of affordable housing;*
- *Determine percentage level of growth the county is willing and able to accommodate, with workforce housing being a key component;*
- *Need continual dialog on "sprawl";*
- *In current development district plan, the best density obtainable is about 2.3 per acre – look at that on how to acquire TDRs;*
- *Design credits- determine how many TDRs might be required; and*
- *Staff to provide a report showing how they can effectively manage the program as presented.*

Mr. Canavan outlined the process that will need to be followed in order to see this issue completed quickly. He reported that it would involve rapid identification of text amendment changes, a return of the matter to the Planning Commission upon completion

of the changes, and then a return of the matter to the Commissioners for consideration and a public hearing process.

Commissioner Mattingly departed the meeting at this time.

TOUR OF ST. JAMES SUBDIVISION

Present: Denis Canavan, Director, Land Use and Growth Management
George Thompson, Inspector, Land Use and Growth Management
Jane Robeson, Inspector, Land Use and Growth Management
John B. Norris, III, County Attorney
Christopher Hill, HBI, Builder
Mike Hackert, Homeowner & numerous residents

The Board of County Commissioners departed the Governmental Center in order to tour St. James Subdivision, Sections 3 & 4, to view debris in the Forest Conservation Area. The tour began at lot #55, and then moved on to tour lots #56, #54, and #53. Homeowners contended that builders committed offenses to the properties in between the time of signing contracts for the land/homes and the time of final settlement. Commissioner President McKay reported that the Department of Land Use and Growth Development is working on an ongoing investigation as to the concerns of the residents of the subdivision. The following items were presented for the record:

- Order of events of Lot #55 of the St. James Subdivision
- Photographs of Lot #55 taken on 6/6/05 and 7/15/15
- Aerial view of Section III of the St. James Subdivision
- St. James Subdivision Plat Section 3, Lot #55 on Plat 4 of 5 (19426 King James Parkway). The hash marks on Plat 4 of 5 indicate the forest conservation area and the dotted lines indicate the limits of disturbance; and
- St. James Subdivision Plat Section 4.

The following items were noted for the record:

- Order of events of Lot #55 – date of change in ownership should be changed to August 9th;
- Problems included numerous large and small rocks/stones on properties, construction debris, trees piled up on properties; trees reportedly uprooted and then deposited in other locations on landowners' properties; bulldoze tracks in various locations;
- Landowners indicated the area behind Lot #55 within the forest conservation district was intact in January of 2004, which was well after Hurricane Isabell. Root balls on the bottoms of trees with no holes in the ground behind them indicate that the trees fell elsewhere. Lot #55 landowner reported that there is a clearing to the rear of the property where trees have been pushed to the side, reportedly to get through the clearing in order to remove a tree;

- Ms. Robeson reported that the clearing could possibly be a result of perc testing or survey work, and that the land would not have become a forest conservation area until it was assigned such designation;
- Lot #56 landowner reported that he planted about 300 trees since moving into his home. He stated that he inspected the lot after Hurricane Isabell, and that trees were intact at that time. In February of 2004, he returned to view the site, and trees had been downed since his previous site visit; and
- Lot #53 & #54 – water pours through property when heavy rains occur, causing extensive erosion.

After adjournment, some of the Commissioners and/or staff toured other lots and/or sections of the subdivision.

ADJOURNMENT

The meeting adjourned at 6:31 p.m.

Minutes Approved by the Board of County Commissioners on _____

Kate Mauck, Senior Administrative Coordinator