

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
GOVERNMENTAL CENTER
Tuesday, September 28, 2004**

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 transcribed the following meeting minutes:

CALL TO ORDER

The meeting was called to order at 9:14 a.m.

APPROVAL OF CHECK REGISTER

Commissioner Mattingly moved, seconded by Commissioner Dement, to authorize the Commissioner President to sign the Check Register. Motion carried.

Commissioner Mattingly reminded staff that he was awaiting information requested earlier from the Finance Department regarding a bill listed on page 24 to Choice Point Services. The matter involved drug testing in or out of the County.

APPROVAL OF MINUTES

Commissioner Mattingly moved, seconded by Commissioner Dement, to approve the minutes of the Commissioners' meeting of Tuesday, September 21, 2004. Motion carried.

EXECUTIVE SESSION

Commissioner Dement moved, seconded by Commissioner Mattingly, to add Executive Session to the agenda for matters of Personnel and Real Property Acquisition/Disposition. Motion carried.

FARM LIFE FESTIVAL INVITATION

Present: Joan Beavers, Volunteer, Christmas in April
Howard Thompson, Vice President, Christmas in April

The Board of County Commissioners and the viewing public were invited to the 7th Annual Southern Maryland Farm-Life Festival, to be held at the farm of Kitty and John Parlett, on Saturday, October 9 and Sunday, October 10, 2004. Proceeds from the festival will be donated to Christmas in April St. Mary's County.

PROCLAMATION: NATIONAL LIBRARY CARD MONTH AND KICK-OFF OF LIBRARY CARD YEAR

The Board of County Commissioners presented a proclamation in honor of National Library Card Month and also to kick-off Library Card Year.

RETIREMENT COMMENDATION

The Board of County Commissioners presented a retirement commendation to Margaret Thaler, who is retiring after seven years of service with the St. Mary's County Library. Ms. Thaler is currently serving as the Charlotte Hall Branch Manager, and will be retiring at the end of September, 2004.

COUNTY ADMINISTRATOR

1. Draft Agendas for October 5 and October 12, 2004
2. **Sheriff's Department**

Present: Sheriff Zylak
Erin Gass, Fiscal Manager

- a. **Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign Budget Amendment (\$15,000) for Phase II of the Sheriff's Department Strategic Plan. Commissioner Jarboe voted against the motion; all others voted in favor. Motion carried.**
- b. **Grant Award – Edward Bryne Memorial/Cold Case Grant, Subrecipient Agreement, and Budget Amendment**

Commissioner President McKay asked the Sheriff to provide a future update on what happens with cold cases that have been funded by this Grant. Sheriff Zylak stated that he would provide a mid-term as well as a final report.

Commissioner Mattingly asked about the potential for combining processes to have one single or blanket sub-recipient agreement for all items in the future – i.e., to cover all grants for certain groups within a fiscal year. Mr. Norris responded that this was indeed possible.

Mr. Norris reported that the Sheriff submitted a request to add extra wording to the Subrecipient Agreement regarding the State Government Tort Claims Act.

The amendment has been approved by the Sheriff's legal counsel as well as the County Attorney. Commissioners agreed to allow the additional wording.

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to: 1) Authorize the Sheriff to apply for grant funding and to accept the grant award for the Edward Bryne Memorial/Cold Case Grant in the amount of \$21,805 only upon full execution of the Subrecipient Agreement; 2) Approve the Subrecipient Agreement for this Grant, as amended, and authorize its signature by the Commissioner President upon signature by the Sheriff; and 3) Approve and authorize the Commissioner President to sign submitted budget amendment only upon full execution of the Subrecipient Agreement. Motion carried.

- c. Commissioner Jarboe moved, seconded by Commissioner Dement, to: 1) Authorize the Sheriff to apply for grant funding and to accept the grant award for the Local Law Enforcement Block Grant in the amount of \$16,271 only upon full execution of the Subrecipient Agreement; 2) Approve the Subrecipient Agreement for this Grant, as amended, and authorize its signature by the Commissioner President upon signature by the Sheriff; and 3) Approve and authorize signature by the Commissioner President upon the submitted Budget Amendment decreasing the budget for this grant to reflect the actual award and increasing Unallocated Grant Reserve by \$3,256 and Commissioners' Reserve by \$145 only upon full execution of the Subrecipient Agreement. Motion carried.**

Commissioner Raley asked the Sheriff to provide information on the Local Law Enforcement Block Grant formula, as St. Mary's County and Calvert County received significantly less funding than Charles County.

- d. Commissioner Jarboe moved, seconded by Commissioner Dement, to: 1) Accept the award from the Maryland Child Support Enforcement Administration only upon full execution of the Subrecipient Agreement; 2) Approve the Subrecipient Agreement for this Grant, as amended, and authorize the Commissioner President to sign upon signature by the Sheriff; and 3) Approve and authorize the Commissioner President to sign submitted Budget Amendment only upon full execution of the Subrecipient Agreement. Motion carried.**

Commissioner Mattingly temporarily departed the meeting at this time.

3. Department of Economic and Community Development, Housing Authority, and Southern Maryland Tri-County Community Action Committee, Inc.

Present: John Savich, Director, DECD
Dennis Nicholson, Ex. Director, HA
Robert Tourigny, Housing Administrator, SMTCCAC

Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign Department of Housing and Community Development/Community Development Administration Single Family Housing/ Weatherization Assistance Program Weatherization Assistance Agreement and Subrecipient Agreement. All Commissioners present voted in favor of the motion. Motion carried.

4. Department of Economic and Community Development and Department of Public Works and Transportation

Present: Robin Finnacom, Executive Director, Community Development Corporation

George Erichsen, Director Department of Public Works and Transportation

Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign temporary easement agreements with Shangri-La Townhouses, Inc. and the St. Mary's County Board of Education for the Pathways to Schools Project. All Commissioners present voted in favor of the motion. Motion carried.

5. Department of Public Works and Transportation

Present: George Erichsen, Director

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign Amendatory Agreement of Intergovernmental Agreement with the Maryland Environmental Service for the implementation of the St. Mary's/Sandgates Scrap Tire Stockpile Cleanup Project. All Commissioners present voted in favor of the motion. Motion carried.

6. Department of Recreation, Parks, and Community Services

Present: Phil Rollins, Director

Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign Program Open Space Community Parks and Playgrounds Program Development and Capital Renewal Application. All Commissioners present voted in favor of the motion. Motion carried.

Commissioner Mattingly returned to the meeting at this time.

7. **Department of Land Use and Growth Management**

Present: Denis Canavan, Director

Commissioner Dement moved, seconded by Commissioner Raley, to approve and authorize the Commissioner President to sign Budget Amendment (\$6,600) in order to send Land Use and Growth Management staff to Customer Service Training at the College of Southern Maryland in Leonardtown. Motion carried.

8. **Finance Department**

Present: Elaine Kramer, Director

Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign eight (8) Budget Amendments transferring funds from CIP projects to the Finance 2005 CIP Reserve and approve and authorize the Commissioner President to sign one (1) Budget Amendment to close out Finance 2004 CIP Reserve to FIBOCC CIP Reserve. Motion carried.

9. **Approval of New Sheriff's Office Retirement Plan Board of Trustees Member**

Mr. Forrest, on behalf of the Sheriff's Office Retirement Plan Board, asked Commissioners to review and approve one of the two names submitted for a vacant position on the Retirement Plan Board.

Commissioners directed that staff ask the St. Mary's County Ethics Commission to determine if the candidate who is President of the FOP would be eligible or ineligible to sit on the Board on particular topics, or if there would be any conflict involved. The Ethics Commission should be asked to expedite the matter.

Donna Gebicke transcribed the following meeting minutes:

BOARD OF EDUCATION: REVIEW AND ENDORSE BOARD OF EDUCATION'S CAPITAL IMPROVEMENTS PROGRAM SUBMISSION TO THE STATE

Present: Dr. Patricia M. Richardson, Superintendent of Schools
J. Bradley Clements, Chief Administrative Officer

The Commissioners and school system representatives discussed the letter of endorsement of the school system's FY 2006 through 2011 state capital improvements program and the status of the contract award for the George Washington Carver Elementary School project.

Dr. Richardson informed the Board that the base bid with the desired alternates for the George Washington Carver Elementary School replacement project placed the project \$886,080 over budget. The state increased the construction dollars for the 2006 CIP by \$17 per square foot. The local portion of the \$17 increase was included in the CIP request. The state portion was not included because a project is not eligible for a construction funding change after it receives construction funding approval, which occurred in FY 2005 at a rate of \$140.00 per square foot. The state policy is not to go back and recalculate once they have increased the square footage cost. Re-bidding the project would result in a construction delay of six-twelve months. The school system looked at eliminating some of the construction components. Modifications in infrastructure areas to lesser quality products would result in higher maintenance costs. The school system's conclusion was that the building was value-engineered from the beginning and any significant changes would take away from the basic program and design requirements.

To award the George Washington Carver Elementary School project, the school system will need an additional \$886,080. To address this additional funding, the school system is reviewing their FY 2006 local request to realign the funding for projects to cover as much of the cost increase for this project as possible. The school system staff will be recommending to the Board of Education that they reduce the FY 2006 request by \$330,000, along with the \$14,242 in surplus project funds for a total of \$342,242. Dr. Richardson requested that the County help the school system make up the difference in the amount of \$543,838, so that the contract can be awarded to the lowest, responsible bidder immediately and the project can remain on schedule.

The question was asked whether the school system could bid the project without prevailing wages to reduce the cost. Because this new project is new construction and the school system is receiving more state funds, bidding without prevailing wages does not appear to be an option.

The Commissioners asked the school system to: continue looking at the out years of their Capital Plan to try to keep the budget in line; provide a list of bid alternates; identify the projects the Board of Education decides to reduce; and continue looking into the possibility of bidding without prevailing wages. It was agreed that the Commissioners will continue this discussion and take action regarding endorsement of the school system's CIP request to the state at their next meeting.

Kate Mauck transcribed the following meeting minutes:

REVIEW OF 2005 LEGISLATIVE PROPOSALS

Present: Heidi Dudderar, Deputy County Attorney

Ms. Dudderar outlined the 2005 Legislative Schedule. The following 2005 legislative proposals received from County departments/agencies and citizens to date were outlined by Commissioner President McKay, with accompanying remarks and/or votes as noted:

- 1) Denise Barnes, Citizen – Impose stricter penalties and revise procedures for persons who violate protective orders.
- 2) Lisa Clemence, Citizen – Prohibit/regulate open fires in St. Mary’s County.
- 3) Roy Feders, Citizen – Prohibit smoking in indoor public establishments in St. Mary’s County.
- 4) This item has been withdrawn.
- 5) Board of Education –
 - a) Increase the annual salary of the Chairman of the Board of Education from \$4,300 to \$7,000 and the annual salaries of the members from \$4,000 to \$6,000; and
 - b) Require the St. Mary’s County Compensation Review Commission to review the salaries of the Board Chairman and members and make recommendations to the County Commissioners in accordance with the provisions set forth in §23-5 of Article 19 of the Public Local Laws of Maryland.
- 6) Office of the Sheriff – Amend St. Mary’s County bingo statute to:
 - a) Remove the term “gaming professionals”; and
 - b) Allow volunteer fire departments to use non-member volunteers to assist in the bingo at their annual carnivals; and
 - c) Allow qualified organizations to compensate a “bingo caller” and a cash register operator for a bingo; and
 - d) Allow qualified educational organizations to provide tuition reduction in exchange for volunteer assistance in operating a bingo; and
 - e) Limit the number of days in a week or total consecutive days during which an organization may operate a bingo.
- 7) Metropolitan Commission – Revise provisions relating to treasurer’s bond to conform to bond language required under Maryland law.
**Section 113-1(e) of Article 19 of the Public Local Laws of Maryland*
- 8) St. Mary’s Soil Conservation District – Require conformity with State sediment control requirements by single family residential construction on lots of 2 or more acres when the construction will disturb less than one-half acre.
**This type of construction is currently exempted from conformity (except in Calvert County).*
- 9) Property tax credit for individuals over age 70.
**Legislation was introduced in 2004, but was given an unfavorable reporting in the Senate.*
- 10) Department of Land Use and Growth Management – Remove the specific requirements that apply only to St. Mary’s County with respect to the Comprehensive Water and Sewerage Plan.
**Section 9-506(a)(3) of the Environment Article of the Annotated Code of Maryland.*
Commissioner Raley moved, seconded by Commissioner Jarboe, to remove item #10. Commissioner President McKay voted against the motion; all others voted in favor. Motion carried.
- 11) Department of Recreation, Parks, and Community Services – Request State bond funding for three capital projects:

- a) \$100,000 for Piney Point Lighthouse Museum; and
 - b) \$250,000 - \$500,000 for Three Notch Trail; and
 - c) \$250,000 - \$500,000 for Charlotte Hall Community Recreation Center.
- 12) Finance Department – Extend the deadline, from November 1, to January 1, for counties with populations of 400,000 or less to provide financial reports to the State.
**Counties with populations greater than 400,000 currently are not required to report until January 1.*
- 13) Finance Department – Authorize the County to issue \$20,000,000 in public facilities bonds.
- 14) Department of Economic and Community Development – Increase County bonding authority to enable the County to enter into land installment contracts for agricultural preservation purposes.
- 15) Department of Economic and Community Development –
- a) Exempt farm markets and on-farm food processing/preparation operations from certain State food services regulations relating to commercial kitchen equipment; and
 - b) Alter the term of a “temporary food service facility” license from 14 days to 4 months.

The next meeting regarding Legislative Proposals will take place on October 12th at 6:30 p.m. At that time, a public meeting will be conducted in order to receive briefings from staff and input from the public.

SPECIAL REQUEST

Commissioner Mattingly asked Mr. Forrest to check to see if a letter has been done regarding a transportation priority list signed by all three counties together. Commissioner Mattingly noted that he was not particularly satisfied with the listing of regional priorities.

HICKORY HILLS SHOPPING CENTER – CORNER OF ROUTES 235 AND 237: FUNDING ANNOUNCEMENT FOR TRANSPORTATION IMPROVEMENTS ON MARYLAND ROUTES 237/235 AND ROUTE 5

The Board of County Commissioners recessed the meeting in order to attend a funding announcement for transportation improvements on Maryland Routes 237/235 and Route 5 by the Maryland Department of Transportation.

The meeting of the Board of County Commissioners reconvened at 3:12 p.m.

MARYLAND DEPARTMENT OF TRANSPORTATION: CONSOLIDATED TRANSPORTATION PLAN

Present: Robert L. Flanagan, Secretary, Maryland Department of Transportation
 Neil Pederson, Administrator, State Highway Administration
 Delegate Anthony O'Donnell

Numerous Maryland Department of Transportation Representatives

Announcements were made earlier in the day by the Maryland Department of Transportation regarding funding for the widening of Maryland Route 237 in Lexington Park (Chancellor's Run Road), and also streetscape enhancements on Maryland 5 Business in Leonardtown. It was reported that both of these projects were made possible by Governor Robert Ehrlich, Jr.'s new Transportation Funding Package that passed during the legislative session.

Secretary Flanagan and staff outlined the following:

- Hellmann Commission reported a need for an additional \$300 million per year in the State of Maryland;
- \$238 million in new revenues for transportation was provided for;
- St. Mary's County will receive \$3.8 million over a period of six years in additional funding;
- \$52 million will be spent to widen Maryland Route 237;
- \$3.2 million in additional funding will be spent for community enhancements on Maryland Route 5 in Leonardtown;
- Maryland is 47th in the country for investment in highways – strong need for improvement;
- Failed transportation efforts throughout the country were outlined;
- Mega-projects in the State were outlined;
- Specifics regarding the FY 2005-2010 Maryland Consolidated Transportation Plan were outlined;
- Bridge was briefly discussed – takes fifteen years to plan and build a bridge, and this was put into the long-term plan for needs of the State last year.

The Board of County Commissioners expressed their appreciation for the funding provided and the enhancements that will be forthcoming in St. Mary's County. Additionally, Commissioners requested the following:

- *Commissioner Raley asked that the Commissioners as a Board discuss next week the Route 5 stretch of road at Point Lookout Road from the intersection of Scotland Beach Road to up to the intersection at Camp Brown Road and the need for four-foot shoulders. Would like to see a letter produced by this Board to the Maryland Department of Transportation.*
- *Commissioner Jarboe asked the Maryland Department of Transportation to consider CSX and light railway projects perhaps sometime in the future.*
- *Commissioner Mattingly asked that the State work closely with the Town of Leonardtown as well as the Board of County Commissioners to develop a concept plan for the Route 5 Corridor in Leonardtown. This would allow the Town as well as the County to know what should be asked for and required of developers for traffic safety as well as safety on the highways. There is a need for some short term safety solutions and he looks forward to meeting with the Town and the State for discussion.*

- *Commissioner President McKay presented Secretary Flanagan with a Consolidated List of Priorities, a copy of the video entitled, St. Mary's Embracing Progress, and the 2004 State of the County Report.*

BUDGET WORK SESSION

The Board of County Commissioners conducted a Fiscal Year 2006 Budget Work Session.

Commissioner Jarboe moved, seconded by Commissioner Mattingly, for the Board of County Commissioners to meet in Executive Session in order to discuss matters of Personnel and Real Property Acquisition/Disposition, as provided for in Articles 24, Section 4-210(a)1 and 11, respectively. Motion carried.

Donna Gebicke transcribed the following meeting minutes:

EXECUTIVE SESSION

Personnel

Present: Commissioner Thomas F. McKay, President
 Commissioner Daniel H. Raley
 Commissioner Kenneth R. Dement
 Commissioner Lawrence D. Jarboe
 Commissioner Thomas A. Mattingly, Sr.
 George Forrest, County Administrator
 John Norris, County Attorney
 Donna Gebicke, Recorder

Authority: Article 24, Section 4-210(a)1

Time Held: 5:50 p.m. – 6:00 p.m.

Action Taken: The Commissioners discussed personnel matters.

Real Property Acquisition/Disposition

Present: Commissioner Thomas F. McKay, President
 Commissioner Daniel H. Raley
 Commissioner Kenneth R. Dement
 Commissioner Lawrence D. Jarboe
 Commissioner Thomas A. Mattingly, Sr.
 George Forrest, County Administrator
 John Norris, County Attorney
 Donna Gebicke, Recorder

Authority: Article 24, Section 4-210(a)11

Time Held: 6:00 p.m. – 6:25 p.m.

Action Taken: The Commissioners discussed property acquisition/disposition matters.

Kate Mauck transcribed the remaining meeting minutes:

PUBLIC HEARING: TO DISCUSS THE PETITIONS OF BENEFITED PROPERTY OWNERS WITHIN THE DISTRICT AND CONSIDER POSSIBLE AMENDMENT OF THE RODO BEACH TAXING DISTRICT

Present: George Erichsen, Director, Department of Public Works and Transportation

The Board of County Commissioners conducted a public hearing in order to allow public comment from property owners regarding the Rodo Beach Taxing District. Petitions from property owners were presented to the Commissioners either in favor of or asking for rescission of the taxing district.

Mr. Erichsen outlined the history of the Rodo Beach Taxing District and outlined the increased cost to each property owner, which is the primary reason many of the citizens within the district would like previous implementation of the taxing district to be rescinded. There are currently 71% in favor of the rescission, 16% would like to retain the taxing district, and 14% have not responded.

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

Salvatore Caltabiano – Property owner, Rodo Beach – against - Many lots do not pass perk tests, and if water and sewer service are brought in some day, then he would support the taxing district, but not at this time – would cost too much money, and does not want the road to come through, because the public would then have easy access.

Rocky Rowland – Property owner, Rodo Beach – owns property on two lots that are as yet unbuilt – lots may not perk – deed says there is a restricted community beach, and if a public road comes through, then land/beach which may or may not be owned by the State/DNR would be accessible to the public. Asked for setback to isolate the beach from public use, if the road becomes public.

Mr. Erichsen stated that a public road would indeed allow for free and open use. In addition, ownership of the beach has been difficult to confirm – it may or may not belong to DNR. *Commissioners asked Mr. Erichsen to determine ownership of the beach.*

Bernie Gascon – Property owner, Rodo Beach – for the taxing district – outlined problems with senior property owners who are unable to do the hard work to maintain the road. Road has sitting water, huge potholes, etc. and having the County pave and maintain the road would reduce the risk of flooding.

Claude McNair – Property owner, Rodo Beach – wants road maintenance and asked the County for assistance if the taxing district should fall through. *Commissioners asked staff*

to provide, if the taxing district is rescinded, all available information, engineering reports, documentation, etc. that would assist them in putting together any private road maintenance agreements.

Mike Daras – Property owner, Rodo Beach – Mr. Daras was President of the Association when it began. Stated that every property owner on Chesapeake Bay Drive will be ready to petition for their road to become a taxing district later if the current district is rescinded. Stated that the lake belongs to the State of Maryland and that DNR is working on the water flow problem. Also stated that no parking is available at the end of the road and that law enforcement officials should consider posting no parking signs. Stated that the public is welcome to come to the beach in the Rodo Beach area, as he has not seen beach ownership in anyone’s property deed.

As there was no one else wishing to speak, Commissioner President McKay closed the public hearing for public comment. The record will remain open for a period of ten days for written public comment, and the matter will then be placed on an agenda of the Board of County Commissioners for discussion and a final decision.

ADJOURNMENT

The meeting adjourned at 7:02 p.m.

Minutes Approved by the Board of County Commissioners on _____

Kate Mauck, Senior Administrative Coordinator
to the Board of County Commissioners

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