

**ST. MARYS COUNTY  
BOARD OF COUNTY COMMISSIONERS MEETING  
CHESEAPEAKE BUILDING  
Tuesday, August 19, 2008**

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

**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 August 19, 2008, as submitted. Motion carried 5-0.**

**APPROVAL OF MINUTES**

**Commissioner Jarboe moved, seconded by Commissioner Dement, to adopt the minutes of the Commissioners meeting of August 5, 2008, as presented. Motion carried 5-0.**

**COUNTY ADMINISTRATOR**

1. Draft Agenda for August 26 and Sept. 2, 2008
  
2. **County Administrator and Dept. of Finance** (*John Savich, County Administrator; Elaine Kramer, CFO*)

**Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the budget amendment realigning \$67,390 in Revenue and Expenses from the Asset Forfeiture Project to the Judicial Division in the States Attorneys Office, moving one FTE to 2501 from 2599. Motion carried 5-0.**

3. **Community Health Advisory Committee** (*Dolores Martin, Chairperson; Dr. William Icenhower, Health Officer, St. Marys County Health Dept.; Roy Fedders, Recording Secretary*)

Item rescheduled to August 26, 2008; i.e.,  
Community Health Advisory Committee Bylaws Revision, dated March 11, 2008.

4. **Dept. of Economic and Community Dev.** (*Bob Schaller, Director; Dennis Nicholson, Executive Director*)

**Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and sign the Letter to the Maryland Department of Housing and Community Development, Community Development Administration, irrevocably transferring \$2,942,277 of the Countys On-Behalf-Of Tax Credit Bond Allocation for FY2008 to the Community Development Administration for use in issuing housing bonds on behalf of St. Marys County. Motion carried 5-0.**

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

**Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Program Open Space application and project agreement for the acquisition of the Beavans Property LLC for a new county park. Motion carried 3-1, one abstention.** Commissioner Jarboe voted no and Commissioner Mattingly abstained.

6. **Dept. of Aging** (*Jennie Page, Deputy Director; Peggy Maio, Fiscal Supervisor;*

*(Alice Allen, Mgr., Senior Center Operations)*

**Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner President Russell to sign the Notification of Grant Award for the FY09 Senior Center Operating Grant and the related budget amendment, in the amount of \$8,500, increasing the grant budget in accordance with the NGA. Motion carried 5-0.**

*(Rebecca Kessler, Manager, Home & Community Programs)*

**Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President Russell to sign the Medicaid Waiver Application for a grant to provide Local Administration of Medicaid Waiver for Older Adults during fiscal year 2009. Motion carried 5-0.**

**Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize Commissioner President Russell to sign the St. Marys County Department on Aging Area Plan for FY2009 for the Maryland Department of Aging and to sign the related budget amendment aligning senior program projects with the actual award amounts and the area plan. Motion carried 5-0.**

7. **Dept. of Public Works and Transportation** (*John Groeger, Deputy Director*)

**Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the following Public Works Agreement Addenda, as outlined by Mr. Groeger and in the memo dated August 13, 2008, and to approve and authorize the Commissioner President to sign the Public Works Agreement for Continued Maintenance and Repair for the Mazel Subdivision, located in the 8<sup>th</sup> Election District, with an Expiration Date of May 1, 2009, and to authorize the Board to sign the Resolutions adopting FDR Boulevard, located in the Mazel Subdivision, and posting stop signs as designated. Motion carried 5-0.**

Motion refers to memo from Mr. George Erichsen, Director DPW&T, dated August 13, 2008, outlining public works agreement addenda as follows:

- A. Brooks Knolls Subdivision located in the **3rd Election District** with an Expiration Date of July 1, 2009.  
*The roads included in this Agreement are: Wheatherby Drive (1,198) and Remington Court (940).*
- B. Southwoods PUD Subdivision, Phase 2, located in the **8th Election District** with an Expiration Date of March 1, 2009.  
*The roads included in this Agreement are: Birds Eye Court (652), Arum Place (137), Caraway Place (122), Dayflower Place (236) and Fox Den Court (667).*
- C. Southwoods PUD Subdivision, Phase 3, located in the **8th Election District** with an Expiration Date of April 1, 2009.  
*The roads included in this Agreement are: Primrose Place (200), Hawkbit Court (600), and Sundew Place (113).*
- D. Primrose Park of Wildewood located in the **8th Election District** with an Expiration Date of July 1, 2009.  
*The roads included in this Agreement are: Tallwood Road (1,250), Primevere Road (975), Primevere Street (1,200), Larkspur Street (1,036), Sugarbush Street (661), Wild Iris Street (1,389), Evening Primrose Court (492), Lilac Street (313), Foxglove Street (1,309) and Marguerite Street (594).*

**Commissioner Raley moved, seconded by Commissioner Jarobe, to approve and authorize the Commissioner President to sign the Maryland Aviation Administration Grant Agreement, MAA-GR-09-012, in accordance with the Office of Regional Aviation Assistance correspondence dated July 23, 2008, for St. Marys County Regional Airport, for St. Marys County Regional Airport improvement projects, including: land acquisition services, land reimbursement for land already purchased by the County, and Phase 2 wetlands mitigation as per staffs memorandum of June 13, 2008. Motion carried 5-0.**

*(Zane Rettstatt, Project Engineer)*

**Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Cost Share Agreement with the Army Corps of Engineers for the St. Jeromes Creek Jetty Study, and to approve and authorize the Commissioner President to sign the budget amendments providing the local share of the cost share agreement until such time that the State grant is awarded, and that at the time of the grant award or as a part of FY 2010 budget, the sources of this local funding will be restored. Motion carried 5-0.**

**LAND USE & GROWTH MANAGEMENT: DECISION ON PROPOSED AMENDMENTS TO THE COMPREHENSIVE WATER AND SEWERAGE PLAN FOR THE SECOND WIND PROPERTY**

Present: Dave Chapman, Capital Facilities Planner, LU&GM

The BOCC public hearing was held on July 22, 2008. Mr. Chapman noted that there no further comments were received during the 10-day open record period, which expired on August 1, 2008.

Mr. Chapman reviewed the specifics for CWSP 08-200-02. The proposal is to amend service area maps III-43 and IV-43 to change the service categories from W-6 and S-6 (service in 6 10 years) to W-3D and S-3D (service in 3 to 5 years, developer financed) for a proposed five lot residential subdivision located in the 8<sup>th</sup> District on Rue Purchase Road.

**Commissioner Raley moved, seconded by Commissioner Jarboe, in the matter of Case CWSP 08-200-02, referred to as the Second Wind property, to amend the St. Marys County Comprehensive Water and Sewerage Plan to change the service area categories from W-6 and S-6 (service in 6-10 years), to W-3D and S-3D (service in 3-5 years, developer financed) for 2.86 acres described as Tax Map 43, Grid 3, Parcel 425 in the 8<sup>th</sup> Election District, off of Rue Purchase Road. Motion carried 5-0.**

**DEPARTMENT OF LAND USE AND GROWTH MANAGEMENT CONSIDER ADOPTION OF THE FOLLOWING:**

Present: Denis Canavan, Director  
Phil Shire, Deputy Director

Mr. Canavan referenced a letter dated August 18, 2008, received from Mr. Ford Dean, Co-Chairman, Adequate Public Facilities (APF) Task Force. The letter provides review comments from the APF Task Force for each of the four documents being presented by LU&GM.

The four documents being presented were prepared in accordance with discussion and decisions made at the two recent work sessions held on July 22 and August 5, 2008.

## **1. RESOLUTION TO ADOPT AN ANNUAL GROWTH POLICY FOR ST. MARYS COUNTY**

Based on presentation and Board discussion, the following changes were agreed to:

On page 2 of 4, (1.), change September 30 to April 30. Mr. Canavan said that April is more prudent based on the annual growth policy period being set as July 1 to June 30. The period was initially January to December.

On page 3 of 4, (7.), add recommendation made by the task force that the Director of LUGM shall prepare a written description of the queuing system including, but not limited to the requirements which must be met for determining the place of individual residential projects within the queue. Such written description shall be available to any citizen upon request, together with a list of those project contained within the queue at a given point in time.

On page 3 of 4, (7.), also, add clarification that the administration of the growth policy will include residential development in the town of Leonardtown.

**Commissioner Mattingly moved, seconded by Commissioner Raley, that the Board of County Commissioners adopt an Annual Growth Policy as recommended by the Planning Commission and as modified by the Board to:**

- A. Set the maximum number of residential building lots, or multi-family dwelling units, that may be approved in each twelve (12) month period at 1.90% of the total dwelling units within the County.**
- B. Set the period for the Annual Growth Policy to be from July 1 to June 30 of each year.**
- C. Direct that the Board of County Commissioners shall review the Policy annually.**
- D. Allocate the total number of lots or dwelling units that may receive approval in each twelve (12) month period as follows:**
  - 1. (a.) A maximum of 30% may be approved in the Rural Preservation District (RPD).**
  - 2. (b.) A minimum of 70% may be approved in Districts other than the RPD.**
  - 3. (c.) Of the RPD allocations, 40% shall be reserved for minor subdivisions and 60% for major subdivisions.**
  - 4. (d.) Of the allocations for Districts other than the RPD, 65 % shall be reserved for single family projects and 35% for multi-family projects.**

- E. Accommodate conveyance of no more than two residential building lots between parents and children, or grandparents and grandchildren, after allocations for the year have been fully assigned.**
- F. Establish a phasing schedule for the maximum number of building lots or single family dwelling units that may receive approval in a twelve (12) month period.**
- G. Require a queuing system for allocating building lots/dwelling units among competing residential projects.**
- H. Change the date identified on Page 2 of 4, Item number one, to April 30<sup>th</sup>.**
- I. Add language to Item # 7 on Page 3 of 4 to include the recommendation that the Director of LUGM shall prepare a written description of the queuing system including, but not limited to the requirements which must be met for determining the place of individual residential projects within the queue. Such written description shall be available to any citizen upon request, together with a list of those project contained within the queue at a given point in time.**
- J. Paragraph seven (7) on Page 3 of 4, add the administration of the growth policy will include residential development in the town of Leonardtown. Motion carried 5-0.**

**2. ORDINANCE TO ADOPT ZONING ORDINANCE TEXT AMENDMENTS RE: ADEQUATE PUBLIC FACILITIES**

Mr. Canavan called attention to Chapter 70 (70.6 Procedure for Determination of Adequacy of Public Facilities of Exhibit A), relative to mitigation. Discussion ensued about how flexible or narrowly defined the text in the Zoning Ordinance should be. Mr. Canavan suggested that recommendations (clarifications) made by the task force would be worked in to the administrative practices. No resultant changes were made to the proposed Zoning Ordinance or the corresponding exhibit; i.e., Exhibit A.

**Commissioner Jarboe moved, seconded by Commissioner Raley, to amend Comprehensive Zoning Ordinance Z-2002-01 as recommended by the Planning Commission and as modified by the Board of County Commissioners to revise Chapters 11, 21, 29, 60 and 70 to address the determination of adequacy for school capacity as determined in Chapter 70 of the Zoning Ordinance and in compliance with the Countys Annual Growth Policy. Motion carried 5-0.**

**3. ORDINANCE TO ADOPT SUBDIVISION ORDINANCE TEXT AMENDMENTS RE: ADEQUATE PUBLIC FACILITIES**

Mr. Canavan referenced Section 30 of the Subdivision Ordinance; i.e., 30.5 Preliminary Plan and 30.6 Preliminary Plan Application Procedures that were amended to include a reference to the Annual Growth Policy.

**Commissioner Raley moved, seconded by Commissioner Dement, to amend Subdivision Ordinance Z-2002-02 to revise Chapter 30 to require that preliminary plan approvals are consistent with the Countys Annual Growth Policy. Motion carried 5-0.**

**4. RESOLUTION TO ESTABLISH SCHOOL SERVICE AREAS TO DETERMINE ADEQUACY OF PUBLIC FACILITIES**

Mr. Canavan pointed out that the Annual Growth Policy will not trump the requirements of Chapter 70 of the Zoning Ordinance (or the Subdivision Ordinance).

Resolution repeals R-03-11 and

Establishes a single school district for secondary schools; i.e., middle and high school and two school districts (attendance zones) for elementary schools, being north and south of Patuxent Beach Road and St. Andrews Church Road (MD Rt. 4).

Modifies the student generation rate per dwelling unit as 0.215 elementary, 0.107 middle, and 0.154 high school.

**Commissioner Mattingly moved, seconded by Commissioner Dement, to adopt a resolution superseding County Commissioners Resolution No. R-2003-11, and establishing the attendance zones or service areas to determine the adequacy of schools as public facilities pursuant to section 70.5.2(i) of the St. Marys County Comprehensive Zoning Ordinance, and reestablishing and reaffirming guidelines to calculate the number of students expected to be generated by a proposed residential development pursuant to section 70.11.2(b) of the Zoning Ordinance. Motion carried 5-0**

*It was noted the 5<sup>th</sup> paragraph, 2nd line, needs to be changed to read as follows:  
Education to establish service areas for purposes of determining adequacy of*

**PUBLIC HEARING ON PROPOSED AMENDMENTS TO ORDINANCE  
2004-09, WAIVER OR DEFERRAL OF BUILDING IMPACT FEES, AS  
OUTLINED IN CHAPTER 223 OF THE CODE OF PUBLIC LOCAL LAWS OF  
ST. MARYS COUNTY**

Present: Bob Schaller, Director, Dept. of Economic and Community Dev.

The public hearing commenced at 11:48 am and was held in the meeting room of the Chesapeake Building. Mr. Schaller noted for the record that the public hearing was advertised in the July 23 and 30, 2008 editions of the Enterprise newspaper.

The purpose of the public hearing was to present and receive public testimony on the proposed amendment to Ordinance 2004-09, Waiver or Deferral of Building Impact Fees. The Governor approved House Bill #373 on May 2, 2006, on the St. Marys County Impact Fee Program.

Significant changes were outlined by Mr. Schaller as follows.

In each fiscal year, the Board of County Commissioners may  
Waive the impact fee up to 60 new units (*previously 30 new units*).  
Defer the impact fee up to 70 new units (*previously 50 new units*).  
Waive or defer the impact fee for new units that are deemed to be  
affordable for individual whose family income in the previous fiscal year  
was less than 60 percent of the County median family income (*previously  
50 percent*). Mr. Schaller noted this would currently be \$49,260 for a  
family of four.

The Bill deleted the requirement that the amount building impact fees waived or deferred were capped. (*Previously could not exceed \$350,000.*)

The sunset clause was also lifted. There is no time limit on the Impact Fee Waiver / Deferral program. (*Previously ended June 30, 2006*).

Ms. Kramer estimated the annual loss of revenue as \$585,000, assuming the number of waivers is at the cap each year.

Commissioner President Russell opened the hearing for public testimony at 11:54 am.

**Public Testimony**

**Jim Brown, President, Victory Housing , 5430 Grosvenor Lane,  
Bethesda, MD 20814**

Mr. Brown presented testimony in favor of waiving school impact fees, specifically for affordable senior housing. Victory housing (non-profit, Catholic Archdiocese of Washington) is trying to develop an affordable seniors community at the Immaculate Heart of Mary, on FDR Blvd. The Archdiocese is donating the land.

Trying to keep rents down, paying school impact fees would impact project significantly.

Mr. Brown said the schools portion (impact fees) equates to:

\$3,375 a unit x 75 units (\$253,125) with interest over 40 years (\$780,000).

The only way this can be made up is to increase the rent. Looking for a public/private partnership with the County to keep the rents down.

Mr. Brown cited Maryland counties that have waived impact fees for schools.

Senior housing criteria 62 years of age or older.

**Brian Lopez, Osprey Property Company, 175 Admiral Cochrane Drive, #201, Annapolis, MD 21401**

Mr. Lopez presented testimony in support of proposed legislation.

Actively involved in the development of affordable housing projects. Hunting Creek, off Willows road, recent project that used this program (deferral program), was very successful, they are thankful for the program.

Recommended and requested legislation be reviewed to include additional flexibility to waive impact fees for affordable rental housing, specifically for seniors (as written, only deferral of impact fees can be applied for rental housing). Seniors don't use schools, children are not allowed. State ordinance doesn't specify for rental or for sale. Also provides for advertising option, the County can advertise a loan to the property at a low interest rate, would also save money.

Just finished Hunting Creek apartments; showed an amazing demand for affordable housing; just opened the doors in mid-July and all 70 units have been rented.

Fiscal impact to the County when they apply for State tax credits (state and federal funding, which they require local county contributions as well), waiving the impact fees (\$4,500 per unit) allows leverage for tax credits. For example, Hunting Creek was a 12 million dollar project with County contributions / fee deferral, we were able to access 8.5 million in equity that would not have been able to access if the county hadn't participated.

Commissioner President Russell closed the public hearing for public testimony at 12:00 pm and set the ten day open record period.

**PUBLIC HEARING ON PROPOSED COMPREHENSIVE PLAN AMENDMENT TO INCORPORATE BY REFERENCE THE RELIGIOUS FREEDOM BYWAY CORRIDOR MANAGEMENT PLAN**

Present: Jeff Jackman, Sr. Planner, Land Use and Growth Management  
Jim Kline, Klein Landscape Architects

The public hearing commenced at 12:00 pm and was held in the meeting room of the Chesapeake Building. Mr. Jackman noted for the record that the public hearing was advertised in the August 1 and 6, 2008 editions of the Enterprise newspaper. A previous presentation was provided to the BOCC on May 6, 2008.

The purpose of the public hearing was to receive public testimony and to consider amendments to the Comprehensive Plan: Quality of Life in St. Marys County a Strategy for the 21<sup>st</sup> Century. Specifically, amend page 105 of the Comprehensive Plan to incorporate by reference the Religious Freedom Byway Corridor Management Plan prepared by Lardner / Klein Landscape Architects, P.C., dated March 2008, and modified by Planning Commission Resolution No. 08-11.

Over the past year, a team of landscape architects, planners, engineers, and preservation consultants has been working with an advisory committee representing St. Marys and Charles Counties, the Maryland State Highway Administration, the Maryland Department of Business and Economic Development, and civic groups to develop a management plan for the Religious Freedom Byway, a 125-mile long touring route through Southern Maryland. A primary goal of the effort is to nominate the Religious Freedom Byway for designation as a National Scenic Byway through the Federal Highway Administration's America's Byways Program. A byway management plan is required for nomination along with demonstration of public support for the effort and that the byway is ready for visitors.

Seeking the designation as a National Scenic Byway will provide additional opportunities for heritage-based tourism development, including funding opportunities for preservation and enhanced projects.

The Charles County Planning Commission held its public hearing on June 16, 2008.

Staff recommends amending the Comprehensive Plan to incorporate by reference the Religious Freedom Byway Corridor Management Plan supporting Goal IV.2.3 of the Comprehensive Plan: Preserve the natural, recreation, historical and cultural heritage in conjunction with economic and social well-being to maintain and enhance the quality of life.

On July 14, 2008, by a vote of 5 in favor and 1 opposed, the Planning Commission adopted Resolution No. 08-11 recommending the Corridor Management Plan be adopted and incorporated by reference into the St. Marys County Comprehensive Plan, with modifications as outlined in the public hearing staff report dated July 30, 2008. Additionally, a document titled Modifications recommended by the Planning Commission Reference PC Resolution 08-11 was provided to the Commissioners just prior to the meeting.

Mr. Kline provided a PowerPoint presentation about the Religious Freedom Byway Corridor Management Plan.

Commissioner President Russell opened the hearing for public testimony at 12:32 pm.

**Public Testimony**

The following individuals provided testimony in support of the Religious Freedom Byway Corridor Management Plan.

**Beth Clark, County Planner, Charles County Government, P.O. Box 2150, LaPlata, MD 20646**

**Roz Racanello, Southern Maryland Heritage Area**

Additionally, **Jay Moose, Thomas Stone National Park Service**, was in attendance as a show of support.

Commissioner President Russell closed the public hearing for public testimony at 12:00 pm and set the ten day open record period.

**COMMISSIONERS TIME**

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

**MOTION TO ADJOURN**

**Commissioner Dement moved, seconded by Commissioner Raley, to adjourn.  
Motion carried 5-0.**

The meeting adjourned at 12:53 pm.

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

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Betty Jean Pasko, Sr. Admin. Coordinator