

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
CHESEAPEAKE BUILDING
Tuesday, November 10, 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
Donna Gebicke (Recorder)

CALL TO ORDER

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

APPROVAL OF CHECK REGISTER

Commissioner Raley moved, seconded by Commissioner Mattingly, to authorize the Commissioner President to sign the Check Register for checks dated November 10, 2009, as submitted by staff. Motion carried 5-0.

APPROVAL OF MINUTES

Approval of the minutes of November 3 and November 5, 2009, was postponed until the next meeting, which is November 17, 2009.

PROCLAMATIONS

Proclamations were presented to Capt. Louis (Ricky) Burris in recognition of his retirement from the St. Mary's County Sheriff's Office and to the Department of Public Works and Transportation in recognition of America Recycles Week.

AIR INSTALLATIONS COMPATIBLE USE ZONES (AICUZ) UPDATE FOR NAVAL AIR STATION, PATUXENT RIVER (NAS)

Present: Capt. Andy Macyko, CO, NAS, PAX River; Captain Stephen A. Schmeiser, XO; Rick Owen, Community Planning Liaison, Naval District Washington; Chris Jarboe, Atlantic Test Range Sustainability Office; LeRoy Mattingly, AICUZ/RAICUZ Manager, NAS, PAX River; Todd Morgan, President, So. Md. Navy Alliance; Bob Schaller; Director, Dept. of Economic and Community Development; Derick Berlage, Director, Dept. of Land Use and Growth Management

Capt. Macyko briefed the Commissioners on the new AICUZ Study for NAS, Patuxent River, which was approved by the Navy on September 21, 2009. The purpose of the AICUZ is to protect the Navy's military operational capabilities and ensure the health, safety, and welfare of the public by achieving compatibility between the air installation and land use practices in neighboring communities.

The update included comparisons of 1979 and 2009 AICUZ APZs (Accident Potential Zones) and Noise Contours over NAS and other changes in doing business at the base.

In reviewing next steps related to the current review of the Comprehensive Plan (Plan), Mr. Berlage stated that with respect to the APZ, there is no expansion outside of the base, so there shouldn't be any call to modify our existing AICUZ as it relates to PAX River. While not part of the briefing today, he referred to the Webster Field study, where the County does not yet have an AICUZ in place. The Planning Commission has recommended in the updated Plan that the County create an AICUZ for Webster Field. This would take place during the rezoning process after the Plan is adopted. Now that noise contours are available, the Board can consider whether there should be a noise attenuation zone created that would not necessarily restrict land use, but might require better building techniques to provide noise buffers in the vicinity of PAX River. The data was not available for the Planning Commission's review, but could still be brought to the Commissioner's table.

COUNTY ADMINISTRATOR

1. Draft Agenda for November 17 and 24, 2009
2. **Office of the County Attorney and Dept. of Public Works and Transportation**
(Liz Passarelli, Real Property Mgr.; George Erichsen, Director, DPW&T)

Commissioner Raley moved, seconded by Commissioner Mattingly, to approve and authorize Commissioner President Russell to execute the Contract of Sale upon certain real property, known as 21708 Great Mills Road, Lexington Park, Maryland, Tax Map 43A, Grid 15, Parcel 44, located in the Eighth (8th) Election District of St. Mary's County, Maryland, containing in the aggregate approximately 27,947.14 square feet of land, more or less, from John Frederick Turner and Bobbi Jo Magee, Personal Representative of the Estate of Mary Rose Turner, for the purchase price of \$450,000 and to authorize Commissioner President Russell to sign required documents to accomplish the purchase, including approval and release of appropriate checks; and furthermore, to direct and authorize the Department of Public Works and Transportation to proceed with the demolition of the building located on this site as soon as practicable after the settlement is completed. Motion carried 3-1, with one abstention. (Commissioner Jarboe voted no and Commissioner Dement abstained.)

3. Dept. of Economic and Community Dev. / Housing Authority

(Bob Schaller, Dir., DECD; Dennis Nicholson, Exec. Dir., Housing Authority of SMC; Bobby Gant, Chairman, Housing Authority; Sandra Johnson; Jackie Reabe)

Commissioner Jarboe moved, seconded by Commissioner Raley, to approve and authorize the Commissioner President to execute the Maryland Department of Housing and Community Development, Community Development Administration Letter of Intent form, allowing St. Mary's County to participate in the Maryland Housing Rehabilitation Program and naming the Housing Authority of St. Mary's County as the Local Administrator. Motion carried 5-0.

Commissioner Raley moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to execute two sets of the Community Development Block Grant agreement, certifications, and exhibits; a Sub-recipient Agreement; the Request for Release of Funds Certification; and the Fair Market Rent (FMR) use policy letter for Project MD10-CD-30 from the Maryland Department of Housing and Community Development on behalf of the Housing Authority of St. Mary's County, in the amount of \$500,000, to assist with the acquisition of Indian Bridge Apartments, an affordable 112 unit rental housing development. Motion carried 5-0.

4. Finance Department, Sheriff's Office, and Dept. of Public Works and

Transportation *(Elaine Kramer, CFO; Tim Cameron, Sheriff; George Erichsen, Dir., DPW&T)*

Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to execute the budget amendment realigning State and County revenue sources of \$125,000 in the ADC Phase 2 project and re-establishing the Phase 2 project as FY10 rather than FY05; approve selection of Kimball Architecture for architectural& engineering (A/E) services, as recommended by both the Technical Evaluation Committee and our Contracting Officer; authorize staff to submit this recommendation for award to the State of Maryland Department of General Services for their review and approval; and to authorize the Contracting Officer to proceed with contract award to Kimball Architecture in the amount of \$1,520,890 for A&E services related to the Adult Detention Center projects, phases 1 at \$1,220,890 and Phase 2 at \$300,000, after receiving the approval of the contractor by the State of Maryland Department of General Services, as well as execution of the corresponding financing documents. Motion carried 5-0.

5. Office of the Sheriff *(Sheriff Tim Cameron; Erin Shoemaker, Fiscal Mgr.)*

Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to execute the Budget Amendment closing out the Rural Domestic Violence Grant, Project US1075, because the grant was not received from the Department of Justice. Motion carried 5-0.

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to execute the Budget Amendment reducing the Collaborative Supervision and Focused, Sheriff Office, Project MD1009, by \$10,000. Motion carried 5-0.

Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to accept the FY09 State Criminal Alien Assistance Program Award, Project US1068, from the Department of Justice on behalf of the St. Mary's County Sheriff Office, for incarcerating undocumented criminal aliens, in the amount of \$7,044, and to execute the related Budget Amendment to decrease the project budget by \$2,956. Motion carried 5-0.

Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to accept the Bulletproof Vests Partners, Project US1016, from the Department of Justice on behalf of the St. Mary's County Sheriff Office, in the amount of \$3,756, and to execute the related Budget Amendment to decrease the project budget by \$18,865. Motion carried 5-0.

(5.e FY2009 State Aid Police Protection Report to the GOCCP was deferred to a future agenda)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to execute the Crime Analyst, Law Enforcement Technology (LETR) grant award, Project USRA06, from the Governor's Office of Crime Control and Prevention on behalf of the St. Mary's County Sheriff Office for a temporary part time Crime Analyst, in the amount of \$46,962, which involves one new position already classified by the Director of Human Resources, pursuant to review and process, and which was included in the FY2010 approved budget, and approve and authorize the Commissioner President to sign the related Budget Amendment. Motion carried 5-0.

6. State's Attorney's Office, Child Support Division

(Lyle Long, Sr. Investigator; Pam Soffos, Legal Assistant II)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to execute the FY2010 Cooperative Reimbursement Agreement US1011 from the Maryland Department of Human Resources on behalf of the State's Attorney's Office in the amount of \$480,154 and the related Budget Amendment increasing the project to match the award; and to authorize the addition of the following position which was requested and budgeted, but not approved during the budget process: one (1) Legal Assistant I at a Grade 4 in the State's Attorney's Office, as classified by the Director of Human Resources, pursuant to review and process, to be effective for the period of the grant and subject to grant funding. Motion carried 5-0.

7. Dept. of Aging (*Lori Jennings-Harris, Director; Peggy Maio, Fiscal Supervisor*)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to execute the Medicare Improvements for Patients and Providers Act 2008 (MIPPA) Grant Memorandum of Agreement, Project US1013, from the Maryland Department of Aging, on behalf of the St. Mary's County Department of Aging, in the amount of \$3,475, which provides the purpose and agreement on how the funds will be used upon award. Motion carried 5-0.

8. Cable Advisory Committee (*Bill Caplins, Chairperson; Bob Kelly, IT Director*)

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and sign the resolution to disband the Cable Advisory Committee, with an Effective Date of November 24, 2009. Motion carried 5-0.

ST. MARY'S COUNTY SCHOOL (SMCPS) STUDENTS: VETERANS DAY SPEECH WRITING CONTEST WINNERS

Present: Lynn Morgan Smoot, SMCPS, Supervisor of Instruction for Fine Arts, SMCPS;
Denise Eichel, Principal, Leonardtown Elementary School.

The following Veterans Day Speech Writing Contest Winners read their speeches and received commendations from the Commissioners: Alyssa Bazemore, Marquez Brice, Emma Gilligan, and Grant Wolfe.

BOCC TAKES POSITIONS ON 2010 LEGISLATIVE PROPOSALS

Present: David Weiskopf, Deputy County Attorney

The Commissioners took positions on the 2010 Legislative Proposals as noted below.

#	Submitter and Proposal Description	Support	Oppose	No Position	Comments
1	<p>Dr. Patricia Dunlap</p> <p>To provide tax incentives for current homeowners who reduce carbon footprint by installing alternative energy sources such as solar, wind and/or geo-thermal systems.</p>	Jarboe Raley		Mattingly Dement Russell	Support initiative, authority already exists
2	<p>Dr. Patricia Dunlap</p> <p>To encourage financial institutions to provide lower interest loans for green construction and green additions to already existing buildings that will be built to specifications resulting in a low carbon footprint.</p>	Jarboe		Raley Dement Mattingly Russell	Jarboe: challenge is how
3	<p>Dr. Patricia Dunlap</p> <p>To provide tax incentives for individuals and businesses that install wind farms on their property for use in producing electricity.</p>	Russell Jarboe		Dement Raley Mattingly	<p>Mattingly: have concerns there may be some negative impact on ops at the base, we have a dialogue with them to make sure this doesn't happen</p> <p>Jarboe: Process in place for Navy to weigh in</p>
4	<p>Dr. Patricia Dunlap</p> <p>To reduce maintenance costs incurred by the State of Maryland by planting over grassy areas that need mowing with native wild flowers and meadow plants, which would reduce the fleet of mowers, weed-eaters, etc. and reemploy workers to other maintenance needs and to the green building trades.</p>	Jarboe		Raley Russell Dement Mattingly	already being done

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5	<p>Tom Hanrahan</p> <p>To limit Mortgage Interest deductions to \$10,000 and property taxes to \$2,500 for MD Income Tax purposes.</p>		<p>Mattingly Dement Russell Jarboe</p>	<p>Raley</p>	<p>State initiative</p>
6	<p>Tom Hanrahan</p> <p>To de-fund abortion coverage with state Medicaid dollars.</p>	<p>Jarboe</p>		<p>Dement Raley Russell Mattingly</p>	<p>State issue</p>
7	<p>Tom Hanrahan</p> <p>To change allocation of state's electoral votes reward to margin of victory.</p>		<p>Jarboe</p>	<p>Mattingly Dement Raley Russell</p>	<p>State and federal issue</p>
8	<p>Liz Purcell Leskinen/ Wanda Twigg</p> <p>To clarify that licensed registered nurses, Reserve Officers' Training Corp (ROTC) teachers, and supervisors who do not hold a teaching certificate will be included in the bargaining unit currently designated for teachers, administrators, and supervisors who do hold a teaching certificate.</p>	<p>Jarboe</p>		<p>Raley Russell Dement Mattingly</p>	<p>Matter between Board of Education and employees</p>

#	Submitter and Proposal Description	Support	Oppose	No Position	Comments
9	<p>Liz Purcell Leskinen Wanda Twigg</p> <p>To provide that the Education Association of St. Mary's County could negotiate with the Board of Education of St. Mary's to negotiate a provision that all employees who decline to join EASMC will pay their fair share of the costs of benefits that they receive.</p>		Mattingly Jarboe	Dement Russell Raley	<p>Jarboe: people who choose not to purchase something should not be made to pay for what they didn't buy</p> <p>Board of Ed/employee matter</p>
10	<p>Liz Purcell Leskinen Joe Shade</p> <p>To provide that the Collective Education Association of St. Mary's County could negotiate with the Board of Education of St. Mary's to negotiate a provision that all employees who decline to join CEASMC will pay their fair share of the costs of benefits that they receive.</p>		Jarboe Mattingly	Dement Russell Raley	Mattingly: only have 50% - membership, premature
11	<p>St. Mary's County Licensed Beverage Association</p> <p>To establish a limit on the number of Class A (off-sale) liquor licenses.</p>		Jarboe Mattingly	Raley Russell Dement	<p>Alcohol Board currently has authority to manage and control # of licenses. Also, not the solution to problem identified by Alcohol Beverage Assoc. (Mattingly)</p>
12	<p>Tim Cameron</p> <p>To add a Corrections Officer's Bill of Rights for St. Mary's County.</p>	Jarboe Mattingly Dement		Raley Russell	

#	Submitter and Proposal Description	Support	Oppose	No Position	Comments
13	<p>Department of Finance</p> <p>To revise Article 19, Section 37 to set December 31 as the deadline for St. Mary's to file its financial report with the Department of Legislative Services.</p>	<p>Mattingly Dement Russell Jarboe Raley</p>			
14	<p>Department of Finance</p> <p>To request authority to issue \$25 million in public facilities bonds.</p>	<p>Raley Russell Dement Mattingly</p>	<p>Jarboe</p>		<p>Necessary to maintain capital programs identified in budget Jarboe: Have \$40m in bond authority, present debt is \$108m, make do with what we have and prioritize funding, make tough cuts</p>
15	<p>Mary Ruth Horton</p> <p>To extend House Bill 623, Chapter 336, by passing an extension of the termination date to June 30, 2015, which will allow the current senior tax credit program to continue without interruption.</p>				<p>Authority has been enacted by new law</p>
16	<p>John Vanatta</p> <p>To enact a "keep right except to pass" law in Maryland.</p>		<p>Jarboe</p>	<p>Raley Russell Dement Mattingly</p>	<p>State matter</p>

Commissioner Raley clarified that his reason for taking “no position” on certain items is due to his belief that such areas as the Liquor Board and Board of Education employee contract negotiations do not come under his purview as Commissioner. Commissioner Jarboe clarified his reason for not using the “no position” option was to let the legislators know where he stands on all of the proposals, including the state issues.

The Commissioner’s positions will be forwarded to the Southern Maryland Delegation for their consideration during the 2010 legislative session.

PUBLIC HEARING: PROPOSED TEXT AMENDMENT TO ALLOW USE OF TDRs FOR RESIDENTIAL DENSITY INCREASE IN RURAL LEGACY AREA FOR GRANDFATHERED PROJECTS

Present: Phil Shire, Deputy Director, Land Use and Growth Management

Mr. Shire stated that the legal advertisements for this hearing were published in the October 23 and 28, 2009, issues of the Enterprise newspaper.

The purpose of the hearing was to consider a proposal to supplement a text amendment to the Comprehensive Zoning Ordinance, Section 26.2.2, enacted by Ordinance Z06-01, that prohibits the development of Rural Preservation District (RPD) zoned land within a Rural Legacy Area. The proposed addendum to the 2006 amendment would provide for the use of TDRs for residential density increase in the Rural Legacy Area for grandfathered projects that had successfully completed TEC review, received preliminary approval and were approved for submittal of a final plat for review and recordation prior to the July 18, 2006, adoption date of Ordinance Z06-01.

The only subdivision request eligible to benefit by this amendment proposes two new lots in the RPD and was submitted in August 2005 for review during the September 2005 TEC cycle.

Commissioner President Russell opened the hearing for public comments. There was no one present to speak to the matter and the hearing was closed. The public comment period for written comments will be kept open for ten days.

COMMISSIONER’S TIME

The Commissioners highlighted upcoming events and those attended over the past week as well as personal interest items.

VISITS

The Commissioners visited the new Engineering Lab at the Southern MD Higher Education Center and L-3 Communications Corporation in California, Maryland. Commissioner Jarboe was not in attendance.

ADJOURNMENT

The meeting adjourned at approximately 3:30 pm.

Minutes Approved by the Board of County Commissioners on _____

Donna M. Gebicke, Administrative Assistant (Recorder)