

**ST. MARYS COUNTY
BOARD OF COUNTY COMMISSIONERS MEETING
CHESEAPEAKE BUILDING
Tuesday, March 24, 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 9:08 AM.

CHANGE TO AGENDA

Commissioner Russell announced that due to additional funding information just being received from the State, todays Budget Work Session scheduled for 10:15 AM is being deferred and will be held at 1:30 PM.

APPROVAL OF CHECK REGISTER

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

This motion was later rescinded and remade using the correct check register date of March 24, 2009.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Dement, to adopt the minutes of the Commissioners meeting of Monday, March 16, 2009, as submitted. Motion carried 5-0.

Commissioner Mattingly moved, seconded by Commissioner Dement, to adopt the minutes of the Commissioners meeting of Tuesday, March 17, 2009, as submitted. Motion carried 5-0.

COUNTY ADMINISTRATOR

1. Draft Agendas for March 31 and April 7, 2009
2. **Dept. of Public Safety** (*Dave Zylak, Director; and Michelle Lilly, Mgr., Emergency Mgmt. Div.*)

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Addendum to the Memorandum of Understanding between the Maryland Department of the Environment and the St. Marys County Local Emergency Planning Committee for the 2009 grant award in the amount of \$6,077, and the related Budget Amendment decreasing the project budget by \$2,823 as submitted by staff. Motion carried 5-0.

3. **Dept. of Recreation and Parks** (*Arthur Shepard, Recreation Div. Mgr.*)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the FY2010 Department of Health and Mental Hygiene, Developmental Disabilities Administration, grant application/agreement in the total amount of \$28,258, and to sign the related certification and assurance documents. Motion carried 5-0.
Grant is for the New Horizons Summer Camp and Inclusion Services.

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

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President Russell to sign the Shoreline Conservation and Management Service Project Agreement for the Gibson Road Shoreline Improvement Project, (Project MA0601), with the State of Maryland Department of Natural Resources, for an interest free loan in the total amount of \$99,675 to be reimbursed by the County over a fifteen year period; and to approve and authorize Commissioner President Russell to sign the related Budget Amendment increasing the project account by \$39,675 using the Capital Reserve. Motion carried 5-0.

5. Dept. of Human Services (*Bennett Connelly, Director*)

(Anita Ray, Substance Abuse Coordinator)

Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the FY2009 Revised Conditions of Award Acceptance Forms for Modification Number One of the Department of Health and Mental Hygiene Substance Abuse Treatment Services and Prevention Services Grants. Motion carried 5-0.

(Julie Ohman, Mental Health Coordinator)

Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign the Core Service Agency Memorandum of Understanding Modification for FY2009, the related Contract Proposal Documents, and the related Budget Amendment, increasing Supplemental Reserve accounts by \$24,974, due to a reduction in State funding. Motion carried 5-0.

6. Dept. of Aging (*Lori Jennings-Harris, Director; and Peggy Maio, Fiscal Supv.*)

(Rebecca Kessler, Mgr., Home & Community Services)

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to sign the Memorandum of Understanding, Adult Day Care Human Services Agreement, and related grant conditions and certification documents with the Maryland Department of Health and Mental Hygiene, on behalf of the St. Marys County Department of Aging, for FY2010 Adult Day Care Funding in the amount of \$83,331. Motion carried 5-0.

(Debbie Barker, Sr. I&A Mgr.)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the Maryland Senior Rides Program grant application documents from the Maryland Department of Transportation in total the amount of \$33,250. Motion carried 5-0.

ST. MARYS SOIL CONSERVATION DISTRICT: REQUEST USE OF COUNTY LAND FOR ST. MARYS COUNTY AGRICULTURAL SERVICE CENTER

Present: Bruce Young, District Mgr.
Donald Ocker, Dist. Supervisor
Robert Jarboe, Dist. Assoc. Supervisor
John Richards, Chair, St. Marys County Fair Board

The St. Marys Soil Conservation District has been approved by the Maryland State Legislature for two (2) bond bills to assist with the construction of the St. Marys Agriculture Services Center.

As a condition of approval, the Department of General Services is requiring an MOU or approved Board of County Commissioners (BOCC) minutes documenting the Countys commitment to build the center on County land. Because of the time involved with developing an MOU (and since there is no formal agreement with the BOCC), Mr. Young requested the Boards approval on its commitment to providing a location or site on County land in which to construct the Agriculture Center.

It was clarified that todays request is not to provide or commit to a specific building site or location. A specific site has not yet been determined; however, it was discussed that the building site will be on fairground property. On behalf of the St. Marys County Fair Board, Mr. John Richards spoke favorably regarding communications (with the St. Marys Soil Conservation District) and having the Agriculture Center building located on fairground property.

Commissioner Dement moved, seconded by Commissioner Mattingly, to support the sublease of a portion of the County property at the fairgrounds for the purpose of the erection of a building to house the St. Mary's County Soil Conservation District Offices, and that we direct staff to work with the St. Mary's County Fair Board for this purpose. Motion carried 5-0.

DEPARTMENT OF LAND USE AND GROWTH MANAGEMENT:

(1) REQUEST FOR EXTENSION OF DEADLINE FOR APPROVAL OF A PROPOSED ZONING TEXT AMENDMENT RE DIGITAL SIGNS FOR ON-SITE ADVERTISING

Present: Phil Shire, Acting Director
Yvonne Chaillet, Planner IV

The zoning text amendment pertaining to digital signs for on-site advertising was introduced for a first reading on September 9, 2008. On December 8, 2008, the Planning Commission (PC) closed its public hearing with subsequent discussions continuing with two work sessions on March 2 and 16, 2009. A decision was anticipated but was not reached at the March 23, 2009, Planning Commission meeting. The next PC meeting is scheduled for April 13, 2009.

In compliance with BOCC Resolution 2005-003, the original 125-day deadline expired January 12, 2009. This deadline was extended by the BOCC through March 31, 2009.

To ensure ample time for the PC to continue its proceedings and make its recommendation proposal, and for the BOCC to conduct a public hearing (followed

by a 10-day open record period), staff requested a second and final extension through June 30, 2009.

Commissioner Mattingly moved, seconded by Commissioner Dement, to extend until June 30, 2009, the deadline imposed by Resolution 2005-03 for approval of a proposed zoning text amendment pertaining to digital signs for on-site advertising. Motion carried 4-1. (Commissioner Jarboe voted nay).

(2) INTRODUCTION OF PROPOSED ZONING TEXT AMENDMENT TO ALLOW WINERIES AND RELATED ACTIVITIES AND SALES

Present: Phil Shire, Acting Director, LU&GM
Yvonne Chaillet, Planner IV, LU&GM
Jeff Jackman, Planner IV, LU&GM
Bob Schaller, Director, DECD
Kevin Atticks - Executive Director, Maryland Wineries Association

Staff presented a proposed text amendment to Schedule 50.4, Section 51.3, and Chapter 90 of the St. Marys County Comprehensive Zoning Ordinances to address wineries. Staff contacted several counties in Maryland and in Loudoun County, Virginia, regarding local requirements and definitions. There is no one standard definition for winery. All current wineries in Maryland operate under a Class 4 Limited Winery License.

Staff is not proposing to create a new Use Type. Comparing similarities to those of a dairy process, staff recommend included wineries under Use Type 2, Agriculture Industry, Minor. Use Type 2 is permitted in the Rural Preservation District (RPD). In concert with agri-tourism, staff supports allowing a facility to be used for wine tasting, retail sales, and related promotional events as an incidental use secondary to a winery operation.

Staff does not propose allowing uses such as for banquets and special events; e.g., weddings and receptions (a winery does not have a full kitchen). This level of activity falls more easily under the categories of conference facility. A conference facility (Use Type 44) is permitted in the RPD only within a Planned Unit Development (PUD). Staff recommends amending the Ordinance to change this designation to a conditional use with specific conditions established for obtaining approval from the Board of Appeals. Staff also recommends changing the description of a conference facility to include a banquet facility.

Staff recommends excluding wineries in the RL District, except in the Residential, Low-Density Transitional Planning Areas under the Lexington Park Development District Master Plan (Master Plan). The RL District is intended to provide for low- to medium-density residential development in areas supported by the Comprehensive Plan, particularly the development districts. In the transitional planning areas development includes low-density residences with substantial accommodation for

preservation of open space or forest retention. These transitional areas typically adjoin rural preserve areas, so it makes sense to allow a winery on a property in a transitional area.

It was noted that Transitional Planning Areas are addressed in the Lexington Park Development District Master Plan; not in the Ordinance or zoning maps. A copy of the Lexington Park Growth Area (Dev. Districts) and Concept Land Uses drawing was provided to the Board and referenced throughout staffs presentation.

Specific changes: (as reviewed by staff and as referenced in the March 13, 2009 staff report):

In Section 51.3.2, Agricultural Industry, Minor, add a new paragraph (1) to include the existing sentence pertaining to the RCA, add a new paragraph (2) to allow a winery in the RL District only in accordance with the Lexington Park Development District Master Plan, and add a new paragraph (3) for a winery in the RPD and in the Residential, Low-Density transitional planning areas under the Lexington Park Development District Master Plan as follows:

2. *Agricultural Industry, Minor*

a. *General Standards.* ~~In the RCA, the uses must be associated with an agricultural use on the same property.~~

- (1) In the RCA, the uses must be associated with an agricultural use on the same property.
- (2) In the Residential Low-Density District, the RL property must be located within a residential transitional planning area in accordance with the Lexington Park Development District Master Plan.
- (3) In the RPD and in the Residential, Low-Density transitional areas, a winery may include a facility for administrative office functions, wine tasting events and other promotional events, and for the incidental retail sales of wine and related promotional items in accordance with the following requirements:
 - (a) Site plan approval is required.
 - (b) The winery shall be operated in accordance with all federal, state, and local laws.
 - (c) The minimum lot size shall be five (5) acres.

- (d) Access shall be from a local or higher road classification.
- (e) The maximum footprint of the area housing office space, retail sales of wine, incidental retail sales, and promotional events incidental to the winery operation shall be in accordance with Schedule 32.1 regarding the maximum footprint of a commercial structure in the RPD.
- (f) Adequate parking shall be provided.

In Chapter 90 Definitions add the following terms and definitions:

Winery. A producing vineyard or orchard with facilities for processing and fermenting grapes and other fruits into wine; includes bottling, aging, storing, and shipping of wine; In the RPD, may include administrative office functions for the winery, incidental retail sales of wine and related promotional items, wine tasting events, promotional events incidental to the winery, and food service.

It was noted by Ms. Chaillet that this definition should also include the RL Transition Area, if it is supported.

Discussion:

Maximum footprint / FAR / lot size

Maximum footprint in the RPD, is 5% of the gross land acreage based on FAR (full area ratio).

FAR commercial structure (in the RPD) is a maximum of 5000 sq. ft., 6250 with TDRs (with a foot note allowing 20,000 sq. ft. for an auction house); (also, needs to be looked at in terms of agri-tourism). In the RL, the standard FAR is a maximum 20,000 sq. ft., up to 25,000 with TDRs.

Proposed TA addresses minimum lot size; (should also consider maximum FAR sq. footage). Staff suggested maximum foot print can be set for a commercial facility that can be used for wine tasting, promotion events and retail sales (separate from winery building used for processing and fermentation), rather than basing on Schedule 32.1 of the Ordinance.

Buffer requirements / neighbor encroachment (adjoining property)- fundamental buffer requirements already exist for the various use types. In accordance with Section 63.4 high intensity agriculture use next to a residential use requires a C buffer, which is the most stringent; i.e., 30 foot depth and requiring a visual berm or a fence. (Staff is proposing no changes or additional buffer requirements, but indicated

the existing requirements could be enhanced to protect neighboring property encroachment).

It was also noted that traffic is not anticipated to be a problem.

Impact on Growth Policy - concern was raised that allowing wineries in the RL zone will be detrimental to the Growth Policy; i.e., housing density should be kept in the RL.

A potential conflict with where a winery site can be located relative to roads identified as scenic highways was discussed; i.e., one proposal is for a winery located off Rt. 5. It was further discussed that wineries should be strategically located; i.e., wine trail, to be successful and to be supportive of agri-tourism.

Mr. Jackman requested that the 30 day comment period and second reading be waived.

Commissioner Jarboe moved, seconded by Commissioner Mattingly, to authorize staff to proceed to the Planning Commission for a public hearing on the proposed Zoning Text Amendment to allow wineries and related activities and sales, and to waive the 30 day comment period and second reading. Motion carried 5-0.

AMMENDED MOTION FOR APPROVAL OF CHECK REGISTER

Commissioner Raley moved, seconded by Commissioner Dement, to rescind the previous motion and to authorize the Commissioner President to sign the Check Register for checks dated March 24, 2009, as presented. Motion carried 5-0.

COMMISSIONERS TIME

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

FY2010 BUDGET WORK SESSION

An FY2010 Budget Work Session was held, beginning at approximately 1:30 PM.

PUBLIC FORUM

Present: Commissioner President Francis Jack Russell
Commissioner Kenneth R. Dement
Commissioner Lawrence D. Jarboe
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley

A Public Forum was held in the Chesapeake Building, BOCC Meeting Room.
Commissioner Russell opened the public forum at 6:30 PM.

The following individuals each provided positive testimony in support of the
Three Notch Trail:

Jim Swift, 23308 Holly Hill Lane, California
Julie VanOrden, 27894 Old Village Rd, Mechanicsville
Mike McCauley, 41693 Garner Rd., Mechanicsville
Steve Whetstone, 24567 Spriggs Ct., Hollywood
Staci Lagana, 16715 Persicha Lane, Hughesville
Margaret Kilnberger, Leonardtown
Dan Donahue, Mechanicsville
Liza Recto, Lexington Park
Carrie Kelly, Lexington Park
David Triautos, Medleys Neck

The following individuals each provided testimony in support of the
Vivian Ripple Center; i.e., facility need, programs and services provided, and concern
for potential closure:

Sheral St.Clair, 38520 Ah Ha Lane, Avenue
Vickie and Sam Brown, Avenue
Pat Woodburn, St. Clements Shores
Georgia Nelson, Clements
Elfreda Mathis, Valley Lee

The following individuals each provided testimony concerning **public school funding**:

Joe Shade, 19724 Oak Ct., Lexington Park
Wanda Twigg, Mechanicsville

The following individual provided testimony regarding **alternate energy**; specifically to
waive building permit fees for the installation of alternate energy systems:

Mike Thompson, Hollywood

The Public Forum ended at 7:45 PM.

There were 28 names on the sign-in sheet; with 19 speaking.

MOTION TO ADJOURN

Commissioner Mattingly moved, seconded by Commissioner Dement, to adjourn the meeting of the Board of County Commissioners. Motion carried 5-0.

Minutes Approved by the Board of County Commissioners on _____

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