

Commissioners of Leonardtown
Town Council Meeting Minutes
November 13, 2007 ~ 4:00 P.M.

Attendees: J. Harry Norris, Mayor
Walter Wise, Vice President
Thomas Collier, Councilmember
Robert Combs, Councilmember
J. Maguire Mattingly, III, Councilmember
Leslie E. Roberts, Councilmember

Also in attendance were: Laschelle Miller, Town Administrator; Rebecca Sothoron, Town Treasurer; DeAnn Adler, Plans Reviewer; Jackie Post, Fiscal Clerk; Teri Dimsey, Recording Secretary; Peter Rhee, Adam Ross; County Times; Kari Ann Behrens Treyes, Resident; Christina Nelson, Resident; Bill Herring; Resident; Bob D'Esposito; Darren Meyer; Resident; Pete Breck, Resident; Leo Dilling, Corbel's Restaurant; Joe Mitchell, Paragon/SABA; Mike/Debbie Mummaugh; Paragon; Farah/Debbie Saba, SABA; John Wharton, Enterprise; Tom Mattingly, County Commissioner; Priscalla Hall, Resident; Dan Burris, LBA; Larry Brice, Resident; Theresa Dent/Father Dakes, St. Aloysius; Mary Ann Murray, Murray & Wamsley; Jim Asresta Resident. A complete list of attendees is on file at the Leonardtown Town Hall.

Mayor Norris called the regularly scheduled meeting to order at 4:00 p.m. After the recitation of the Pledge of Allegiance, Mayor Norris proceeded to take up the first item of business.

Approval of Minutes:

The meeting minutes for the October 8, 2007 Town Council meeting were presented for approval.

Mayor Norris entertained a motion to approve the October 8, 2007 Town Council meeting minutes; Councilmember Mattingly moved to approve the minutes; seconded by Councilmember Roberts; motion passed unanimously.

Mr. Russell Walto announced that he is with the State Highway Administration and is here today to present information on the project study to widen Route 5. He wanted to brief the Council before they begin their public meetings. The first public hearing will be held on Tuesday, December 11, 2007 with a snow date of Tuesday, December 18, 2007 at Leonardtown Middle School Cafeteria from 5:00 p.m. to 8:00 p.m. Also here today with me is our consultant, Ray

Moravec, from Wallace and Montgomery Associates. Mr. Walto and Mr. Moravec provided Council with an overview of the project and provided the Council with a hard copy of their presentation.

Council members asked a variety of questions and thanked them for briefing the Council before holding the public information session.

Councilmember Roberts moved to close the regular meeting and open the scheduled Public Hearing; Councilmember Mattingly seconded; motion passed unanimously.

Mayor Norris opened the Public Hearing on Case #71-07 – Rezoning of Map 127, Parcel 254 from PUD to RMF.

Ms. Miller stated that the applicant is Mike Mummaugh and the SABA Group. The location of the property is between Route 5 and Leonardtown by-pass and Fenwick Street across from Academy Hills. The zoning change requested from PUD to RMF the total tract size is 12.07 acres. Enclosed in your packets is the application for rezoning, a map showing the location of the parcel, the guidelines for rezoning and the processes, correspondence from the SABA Group regarding the reasons for the rezoning request, a copy of the RMF zoning code and the minutes from the rezoning of the parcel next to this property which happened in 2003 and January of 2004.

A request was made by the applicant for a public hearing for the purpose of considering a rezoning of Parcel 254 from PUD to RMF. The Academy Hills project was rezoned by St. Mary's County as a PUD. Subsequently the project was annexed into Leonardtown and then bisected by the Leonardtown by-pass. The subject property was no longer a part of the Academy Hills project and at that time the Parcel maintained the PUD zoning designation even though the parcel was too small to accommodate PUD type development. In April 2004 the adjacent parcel lot 1 was rezoned from PUD to RMF, those property owners also argued that a mistake in zoning was made and the Town Council agreed and allowed that parcel to be rezoned to RMF. Because of the intense development now occurring on the adjacent parcel there is a significant change of the neighborhood according to the applicant. Although the applicant is not required to submit a site plan at this time, I believe they will be discussing what their future plans will be. At the October 15, 2007 Planning and Zoning Commission meeting the Board voted to send a favorable recommendation for the zoning change from PUD to RMF to Town Council and they also held a Public Hearing. We did receive one letter today from St. Aloysius Church and a copy was at the table. We sent notices to the neighboring property owners advertising the Public Hearing in the newspaper and posted the property.

Mr. Joe Mitchell is present today representing Mr. Mummaugh and the SABA Group. Mr. Mitchell provided the Council with the history of this project and how it came to be before the Council for a rezoning request. Mr. Mitchell stated that they respectfully request that Council follow the recommendation of the Planning and Commission and approve the rezoning request.

Mayor Norris asked for any questions.

Mr. Darren Myer, a resident of Academy Hills, remarked that he did not understand the citation that there was a mistake made, how was a mistake made when the bypass was put through and the land was donated to the State? The second thing is that the neighboring land has changed, yes but I do not understand how a twelve acre plot that is zoned as PUD is not buildable anymore, the comment is that it is not developable. Leonardtown has history and character and I do not see how building 100 unit apartment buildings in that land would enhance Leonardtown and why the developer couldn't put up single family homes that would better blend into the community.

Mr. Mitchell responded that a PUD has particular requirements and the Town adopted the original zoning of the PUD even though you can't meet the requirements on twelve acres. Even if they kept the PUD it would be more intensely developed because as a PUD you can have Commercial, Single-Family and Multi-Family. We are not required to have a site plan at this time but we are intending to meet with the Town regularly to determine the best plan for this site.

Councilmember Combs inquired about the PUD to include Academy Hills. Was that figured and developed under the original PUD's total acreage before the bypass? I would consider this to be one parcel and not two. I do not see the mistake and why you can't build under the PUD.

Mr. Mitchell stated that that was about the time that IGC purchased the property and the properties next to it. Academy Hills took the property back due to a foreclosure and then the State came in and divided the property by a State road. This created two separate parcels of property by the State.

There was general discussion about both RMF and PUD requirements, how much commercial, single-family, multi-family and open space would be required and how many units could be built if it was a PUD and how many if the property was rezoned to RMF and how the density and the number of units is affected by the rezoning. The developer was also informed that at this time the Town does not have enough sewer capacity for this project.

Mr. Saba, the developer, stated that their current plan for this site involves 2 buildings of 25 condos each, planned for active adults and the remaining as townhouses.

Councilmember Roberts noted that she agrees with the Planning and Zoning Commission that once the bypass went in it effectively separated this side of the parcel from the PUD. When we took it over it should have been rezoned separately from the original PUD. I also agree that once we rezoned the adjacent parcel that we changed the neighborhood.

Ms. Miller stated that it was rezoned by the County and then it was annexed into Town and then the bypass came according to the research.

A resident of Leonardtown commented that he does not see a mistake and how changing the zoning to RMF will help.

Father Dakes, St. Aloyious, remarked that he has already sent a letter with our concerns but stated that he would like to caution Council to be careful changing the zoning without knowing

what is really going to go there, we have heard it may be for senior and it may not. How much control will the Town have and the effect on the Town and the neighboring properties.

Mr. Pete Breck stated that when the 12 or so acres were donated back in 1983 we should have immediately applied and gotten credit for that but we did not look into it at that time. I believe we should still be entitled to additional density because of the donation.

A resident commented that the bypass through the property did not change the original concept of the PUD and I think the best thing would be to allow the gentlemen the current zoning density plus what he lost by the road going in. Another point is in order for adjacent property owners to really make an important decision I would think you would have at least the original PUD and a copy of the proposed site plan. Also, if this zoning was approved, would the adjacent property owners and others affected have a chance to speak again or voice their opinion about the site plan?

Ms. Miller stated that our meetings are open to the public. I would like to clarify in my write up I explained the reasons that you can consider for rezoning, and we did verify this with our attorney, but the applicant is not required to submit a site plan at this time. We do have a process for looking at run-off, it is in the Critical Area and there will be a detailed process that the project has to go through when they submit a site plan. Legally, under State law, we have to consider if they are proving to your satisfaction if there is a change in the neighborhood or a mistake and that is really the only thing we can consider when making a decision. They are not required by law to bring a site plan forward.

Mayor Norris asked for any further questions, there being none, he entertained a motion to close the Public Hearing.

Councilmember Roberts moved to close the Public Hearing on Case #71-07; Councilmember Wise seconded, motion passed unanimously.

Mayor Norris stated that he and the Council would like to know more about this property's history and to help determine how we should proceed. He entertained a motion.

Councilmember Wise moved to table the request for rezoning for Case #71-07 for thirty days for more research; Councilmember Collier seconded, no further questions, motion passed unanimously.

Police Report – Deputy Gray Maloy

Deputy Maloy reported that he attended the Veterans Day parade which went very smoothly. He reported that there was an increase in accidents and after reviewing them he noted that many had taken place at the Breton Marketplace, some rear-enders, and also some parking lot incidents at the hospital. Many of these probably are due to the amount of construction taking place on both of these properties.

Treasurer's Report – Rebecca Sothoron

Ms. Sothoron reported that she provided Council with the September and October financial information. During October \$125,000 was transferred to the checking account. We are 33% through the budget year. There are some line items I am watching on the income statement that are a little bit over budget for this time of year but most are coming in under budget. The audit is complete and we were able to mail all the required financial reports to agencies on time.

Audit Report – Financial Statement

Ms. Sothoron introduced Mary Ann Murray of Murray and Wamsley to present to Council a full financial statement, a summary prepared by Ms. Sothoron and two of the required communications that came from Murray and Wamsley.

Ms. Murray reported that Ms. Sothoron has provided a financial summary for your review and will refer to it from time to time. Ms. Murray remarked that the Town of Leonardtown received an unqualified opinion, which is also referred to as a clean opinion, which means the financial statements are properly stated in accordance with generally accepted accounting principles, and is the best report that you can get.

Ms. Murray explained the components that comprise the financial statements. Her ensuing presentation included a detailed analysis of the Basic Financial Statements. She also summarized the Report on Internal Controls which highlights the issue of lack of segregation of some duties; a reportable condition that repeats from prior years. She briefly summarized the required communication letter which addresses the responsibilities of management and the scope of the audit. The final management letter highlighted lack of the following 1) fixed asset inventory 2) computerized permits process and 3) fraud risk management program. None of these are serious enough to be considered reportable conditions, but processes that the Town should strive to implement.

Ms. Murray commented that it is always a pleasure working with Ms. Sothoron and thanked Ms. Miller, Ms. Post and the whole staff for all their assistance with the audit and to please feel free to contact her with any questions.

Mayor Norris noted that the segregation of duties is an issue that is discussed each year and the only way to resolve this is to hire additional staff, which is not cost-effective for the town at this time. The physical inventory is something that staff will discuss and come up with some suggestions to bring before Council for consideration. The computerized software has been purchased and we are moving forward. We will have to do more research regarding the fraud policies.

Mayor Norris thanked Ms. Murray for her presentation and for providing such good service to the Town of Leonardtown for the past ten years.

Planner's Report – DeAnn Adler

Planning and Zoning Meeting – Monday, October 15, 2007

- **Case # 37-07 for Marketplace Fine Wine and Liquors.** The applicant was Mr. Dan Guenther and he was requesting a variance be granted for the placement of two 3' x 20' sign banners to be hung in the parking lot of The Breton Marketplace shopping center. A favorable recommendation was made by the P & Z board to allow one sign to be hung for a period of not more than one year when all the construction in the shopping center should be completed. This was forwarded to the Board of Appeals. The BOA meeting was held the following week on Oct. 23, 2007 and Mr. Guenther received a vote allowing him to hang one sign banner in the parking lot for one year.
- **Case # 71-07 for the Rezoning of Parcel 254 from PUD to R-MF.** The applicant was Mr. Mike Mummaugh for the SABA Group. This parcel is located between Rt. 5 and Fenwick St. across from the Academy Hills entrance. A public hearing was held at the P & Z meeting and a favorable recommendation to allow the zoning change was forwarded to this board.
- Under old business we also had a group of homeowners from the Leonardtown Landing neighborhood and the surrounding area who wished to voice their opinions, concerns, & comments regarding the Commercial Phase of the Leonardtown Landing project.

Upcoming Planning and Zoning Meeting – November 19, 2007

Because we know the Planning & Zoning Commission chairman will not be able to attend and we are down one board member with the absence of Dave Frock, the Planning and Zoning meeting scheduled for next week on Nov. 19th is up in the air whether it will be held or not. If it is, we have 2 cases to be heard so far for this meeting, they are:

- **Case # 45-05 Ellenborough Ridge Office Building** – Request for revised concept approval at Academy Hills commercial parcel
- **New Project - Dr. Luke Office Bldg.** at 26220 Point Lookout Road

Town Administrator's Report – Laschelle Miller

Corbel's at the Sterling House Liquor License Letter of Support- Mr. Leo Dilling is opening the restaurant in the Sterling House and is applying for a Class B- Restaurant, onsite, Beer, Wine and Liquor license. He has requested a letter of support from the Town.

Mr. Dilling provided the Council with a description of his plans for fine dining at Corbel's of approximately 100 seats including the porch with a dedicated bar of about 20 seats, mainly open for lunch and dinner six days a week. They plan to open in June 2008.

Councilmember Roberts moved to approve sending a letter of support for an on-site Class B Liquor License; Councilmember Mattingly seconded, no further discussion, motion passed unanimously.

Councilmember Collier read a prepared statement:

We sent a letter to the Planning & Zoning Commission based upon a plan submitted by Mr. Russo that contained several substantive changes from the Concept Plan approved in 2003, which approval may have expired prior to the application for final Site Plan approval. I understand that Mr. Russo has since submitted a different plan and requests Final Site Plan approval of the most recent submission. I want staff to provide the Council an assessment of this newly submitted plan as compared to the 2003 Concept Plan and the requirements for Final Site Plan application and approval in the Commercial Marine Zone. I would also like a legal opinion regarding the expiration of the Concept Plan approve in 2003 as pertains to this Phase of the project. I would also like an analysis of the traffic flow proposed in this latest plan.

The reason I am asking for this is due to the concerns voiced to me regarding traffic flow, emergency vehicle access to the proposed development as well as through the development to the Town homes.

I also have concerns in the areas covered by the following additional requested actions for the Council to take;

- 1. This council conducts a study/analysis, to asses the impact of MR. Russo's proposed 75 parking space short full, from that required by regulation, on the viability of the proposed project, on the surrounding community, park and the town. Receiving input from subject matter technical experts, the developer, citizens, Zoning Board and staff.*
- 2. The council conducts a study/analysis to assess the impact, if any, of increased traffic and parking on the project and surrounding communities, the ability of the fire department to fight fires in the area, the ability of Washington St to handle two way traffic flow and parking, the ability of the school busses to safely transport children in the area and the overall safety of the area. Receiving input from subject matter technical experts, the developer, citizens, Zoning Board and staff.*
- 3. The council requests the Leonardtown Fire Department to conduct an additional review of this project including the park and phase I town houses.*
- 4. The Council conducts a study to understand why the Architectural aspects of this project do not follow the design standards of the town. And to identify and understand the impact, if any, on the governing of future projects within the town. Receiving input from subject matter technical experts and staff.*

I ask the Council to support my requests. I can turn this into a motion if needed. But I think we could do this by consensus.

Mayor Norris asked Council members for comments.

Several Council members made comments.

Some of the residents in the audience commented that they would like to see further studies of the parking and traffic issues and changes to the commercial plan down at the Wharf.

The Council members came to a consensus to have Town staff follow through on the list provided by Councilmember Collier.

Leonardtown Wharf Deed- The Town received an additional \$200,000 from Program Open Space to reimburse us for the purchase of the Wharf Public Park land. There is language that needs to be added to the existing deed that the property will remain a public park. This language is needed to be able to receive reimbursement. Authorization is needed for the Mayor to sign the deed.

Councilmember Roberts moved to authorize the Mayor the authority to sign the deed; Councilmember Mattingly seconded, no further discussion, motion passed unanimously.

Aero Energy Piped Propane- Last month a presentation was given to the Council by Aero Energy who is working with Quality Built Homes to offer piped propane to its homeowners since natural gas is not available in this area. I have gotten the answers to the questions that came up after the presentation.

Below is the response from LaPlata on how they handled the process:

1. Their representatives came to see us to discuss the Town's receptiveness to using such a strategy to provide another energy alternative for housing product in La Plata. Of course, we would be delighted to have gas available, but have left it up to the developer to decide whether or not to actually install the propane facility in his subdivision. We would have site plan approval authority to locate the facility within the community. We would require third-party oversight by credentialed inspectors for the actual installation of the lines and valves to the individual homes. Our Building Inspector, Jorge Thompson, would coordinate the gas line install with the other utilities he normally oversees (water, sewer and storm drain). You have it right – we are treating this as we do electric and cable. Since we have been told by Washington Gas that they have no plans in the foreseeable future to extend the gas lines any further south than their current terminus in White Plains, it seems that an Aero Energy-type program is our only shot at providing community-scale gas. We have not adopted any regulations into Code or made any requirements concerning piped propane at this point.
2. All homes in the subdivision would have at least some gas appliances and the option to upgrade to additional gas uses. All of the homes would be required to connect to this system and there would be no individual tanks allowed in the subdivision.

The Council members came to a consensus that the Aero Energy program should be further explored for Leonard's Grant and possible future projects.

T&T Sweeping Contract- At the October 8th TC meeting I brought forward the T&T Sweeping contract for a one year extension. There were a number of questions as to the services so Mayor Norris and I met with the Thompson's on Tuesday, October 23rd to get our questions answered. Following is additional information from T&T that should help in the decision to extend the contract.

I attached a map of the areas in Leonardtown and the frequency that the streets are swept per the contract. The downtown area is done in the early morning hours, 4 times per week, before the cars are on the street. Once the trash is swept the area is then walked and any remaining trash is

picked up by hand. The residential areas are done after 8:00 a.m. to give the school buses and other vehicles time to get out of the neighborhood.

During the fall months additional leaf pick up was added to the contract several years ago. On Tuesday T&T hauled away 6 truckloads of leaves primarily from the Lawrence Ave. area. If left on the streets major storm drain blockage occurs. During normal months the usual amount of debris hauled away is 1 ½ truckloads per visit. In addition, T&T picks up and hauls away dead animals from the streets.

In the file I found that in 1994 Rt. 5 and Rt. 245 were deleted from the Town contract. Letters followed to SHA that they needed to do their own sweeping of these streets. Shortly after that those streets were added back in due to lack of response from SHA and the build up of trash on the roads. Currently SHA contracts their sweeping out on a very infrequent basis.

Councilmember Roberts moved to approve the one-year extension for 2007 to 2008 as cited in the contract for T&T Sweeping, to be re-bid August 2008; Councilmember Mattingly seconded; no further discussion, motion passed unanimously.

Council Reports:

Events – Councilmember Mattingly:

Upcoming Events of Interest/Meeting Reminders:

<u>Date</u>	<u>Time</u>	<u>Meeting/Event</u>
Wednesday, Nov 14	8:30 AM	LBA Meeting @ Town Office
Wednesday, Nov 14	5:30 PM	Chamber Business After Hours Hosted by Comcast Spotlight & JT Daugherty Conference @ JT Daugherty Conference Center
Friday, Nov. 23	5 PM-9 PM	Christmas on the Square & Tree Lighting
Friday, Nov. 23	9 AM-9 PM	SMC Festival of Trees
Saturday, Nov. 24	10 AM-3 PM	@ Bell Motor Co. Showroom
Sunday, Nov. 25	Noon-6 PM	
Wednesday, Dec. 5	6:30 PM	MML Legislative Dinner (Southern Maryland Chapter) @ Westlawn Inn, North Beach
Monday, Dec. 10	6 PM-9 PM	Town Christmas Party Open House @ Café des Artistes
Tuesday, Dec. 11	9:00 AM	Chamber Tourism Meeting

@ SMC Airport Conference Room

Wednesday, Dec. 12	8:30 AM	LBA Meeting
Saturday, Dec. 15	11AM-1PM	Santa & Mrs. Claus on the Town Square
Sunday, Dec. 16	3-4:30 PM	Hospice Tree of Light Ceremony @ JT Daugherty Conference Center

Grounds – Councilmember Combs: No report

Streets and Roads – Councilmember Wise: No report

Capital Projects – Councilmember Collier: No report

MML/SMMA – Councilmember Roberts:

Councilmember Roberts reported that Wednesday, December 5, 2007 is the MML/SMMA Legislative Dinner in North Beach.

Councilmember Collier remarked that we need new members for both the Planning and Zoning Commission and the Board of Appeals and would like to see an advertisement placed in the local papers seeking volunteers to serve.

Mayor Norris noted that Mr. Wharton of the Enterprise was in the audience and possibly he could mention this in his upcoming column.

Adjournment:

Councilmember Combs moved to adjourn the meeting. Councilmember Roberts seconded the motion, which passed unanimously. The meeting adjourned at 6:27 p. m.

Respectfully Submitted:

Teri Dimsey, Recording Secretary

Approved:

J. Harry Norris, III, Mayor

Walter Wise, Vice President

Thomas R. Collier, Councilmember

Robert C. Combs, Councilmember

J. Maguire Mattingly, III, Councilmember

Leslie E. Roberts, Councilmember