

DRUM POINT PROPERTY OWNER'S ASSOCIATION

SPECIAL TAX DISTRICT
OPINION ON PROPOSED USAGE

Narrative By: Tricia Villa Powell, Board Member
November 11, 2008

This is an opinion on the items submitted as recommendation on the document entitled Budget Committee Recommendations FY2010-2014.

Prior to this, in order to lend credibility to this Opinion set forth, I have added the following information about my background. I have five-plus years of successful work experience with the Orange County Environmental Management Agency in California reviewing proposed legislation relative to impact, conducting feasibility studies and developing policy. My colleagues included Civil Engineers, Geotechnical Engineers, and Public Works Design Engineers.

Response to PO Surveys & Comments...

Grant Writer: DPPOA's existence as an organization is not contingent on grants and DPPOA does not require many grants. As presented on said document, however, DPPOA implies that the request came out of a survey and/or comments. There appears to be no strong justification for a grant writer and \$10,000 would be, therefore ill spent. However, I offer thirty-something years of successful grant writing experience on a pro bono basis to write or develop grants for the organization. I have numerous grants from 1 to 10 million in dollar amounts.

Vehicle Storage Lots: Presentation of this item speaks in plural. Originally the Board was given the impression that there were plans for only one lot. Clarification needs to be made regarding this. Also, in a recent conversation with the

Board President, a possible conflict of interest was brought to his attention regarding this proposal. As a 501-C4 or organization, DPPOA is to utilize STD funds to benefit **ALL, that is, the ENTIRE COMMUNITY**. Boat or trailer/RV owners in the community who are economically stable will be the only ones that will be able to use this facility. Further, according to past STD committee meetings, Board members have stated that there will be a charge for using this storage facility. This is borderline double taxation because members who use the storage space will have had their STD contribution used in developing this space; then will again pay to store their boat or RV. Relative to the concept of "conflict of interest," community members have chronically complained about Board members parking boats in their front yards or in the street. This should be brought before the General Membership before any bids go out or before bringing this item before the County and/or Commissioners. DPPOA going through with this project will benefit only a handful of property owners, and one of them is a DPPOA BOD Executive member. Clearly this latter point signifies a conflict of interest and therefore should not be considered at this time until there is a turnover of the Executive Board. This action could in fact put the organization's tax status at risk because the project does not benefit all per IRS mandates.

Beach Breakwaters: The BOD of DPPOA is at serious risk of litigation should this project be done without the appropriate

licensed agencies and licensed professionals involved. According to the Department of Environment for the State of Maryland, all lakes are owned by the State. In fact, the Drum Point Lake falls under the Critical Area Act. As such, the Water Management Administration (WMA) will be involved because this entity is responsible for enforcing the conservation of the State's waters. The regulatory activities help WMA ensure that State waters are safe for drinking, recreation, and wildlife. The geology of the shorelines in Calvert County and the natural erosion processes combine to present landowners with complex problems: 1) the possibility of moderate to severe shoreline erosion, 2) greater exposure to storms, and 3) cliff failure. Recall that about a decade ago part of a cliff fell and killed a little girl playing in the beach area.

The wildlife in the Drum Point Lake is currently at risk possibly because of the lack of water flow as well as ground factors. Very recently several dead fish were found in the Lake and was taken to the Marine Biology Lab under the auspices of the State University of Maryland. Per the scientists, these fish had died from a lack of oxygen. Further stated by this Lab was that sooner or later, most likely sooner, this Lake will dry up and become a bog infested with mosquitoes. This could pose a very serious health risk to our area because these insects have been known to carry devastating viruses to humans.

The diversion of sand will undoubtedly affect the habitat in the Lake and along the shoreline. There is a Cliff Policy Task Force that has recognized the need for preservation of the cliffs of Calvert County. Any movement of earth along the Bay shoreline will have an adverse effect on the character of this area which is filled and considered renowned landmarks. In addition, along that shoreline are paleontological resources. DPPOA needs to recognize and respect the regulations governing development along the shoreline in a way that protects the property and lives of residents, reduces various forms of pollution such as sediment; pesticides, herbicides and septic leachate. Accordingly, there are many factors to be considered when dealing with shore erosion control measures. Also, consider that there is the Puritan Tiger Beetle that is an endangered species in this area that depends on the natural erosion process for survival.

DPPOA 's mission at this point should be to restore and maintain the quality of the community's ground and surface waters in full support of the State's conservation efforts.

DPPOA NEEDS TO ACKNOWLEDGE THAT THE CRITICAL AREAS INCLUDE THE LAND WITHIN 1,000 FEET OF THE CHESAPEAKE AND COASTAL BAYS OR THEIR MAJOR TRIBUTARIES. Therefore, should the BOD go forth with this project without notifying and obtaining the appropriate approvals; especially because the diversion of sand may impact the area in that it could also cause runoff carrying

chemical and sediment pollution that may affect our well water! DPPOA will be in noncompliance with this Critical Area Act. I recommend that such a project be put before the General Membership and that DPPOA provide all information herein, to the residents in order to insure an informed decision is made by the Membership.

The bottom line is that the Department of Environment has indicated that DPPOA needs two licenses to divert the sand. One is from the Army Corp and the other is from the Wetland Management Administration. If DPPOA ignores this, non compliance will not only threaten the tax status (because the safety of the people in residence is being ignored) but the Department will sue DPPOA on behalf of the State and each Board Member thereof. The sand that was moved two years ago was not in compliance but will be overlooked at this time. Due to the O'Malley Administration, there is a new sheriff in town and Regulations will be enforced.

The following is the regulatory citation from COMAR:

Development of local significance must be consistent with the provisions and requirements of the locality's Critical Area Program within which the development is proposed. The developer must obtain certification from the locality that the actions are consistent with the local program and a description of the proposed development. The request for local certification must be submitted to the State's Commission Area Commission. If the local jurisdiction denies certification, the proposed development may not occur. Appeals may be made according to procedures in COMAR 27.02.08.

Speaking with Curt Larsen, he is totally against doing any type of sand diversion in the beach area.

Picnic Areas: The County Commissioners indicated that STD money could not be used to buy land and I believe that the leasing of property falls under this concern. If other funds will be used DPPOA needs to clearly inform the General Membership where the money is coming from or any revenue is going to and for what cause.

Backfill of Lake Charming: Due to the fact that the State owns all water and ground, and per the Critical Area Act, any change in the ground or water levels etc. needs special licensure from the Army Corp and the WMA. In addition to this, per Curt Larsen, Coastal Engineers need to be involved in this and conduct a Critical Area Analysis for wave climate. This should also be presented before the General Membership due to the nature of this act and the cost projection.

Purchase of Lot Across DPPOA Office: Per County Commissioners, property cannot be bought with STD money. The community needs to approve this item. To reiterate from a previous memo that was sent to the BOD regarding the placement of a parking lot on Barreda and Lakeview:

1) that area is not zoned for such a structure, and 2) placing a parking lot there will bring down the market value of homes surrounding that area. Also, placing this item under “Response to Community Needs...” is misleading because the only requests for this has come from the BOD. Again, as a 501-C4, DPPOA may **not** use STD funds unless the community at large will benefit recreationally or relative to safety. Due to the

chronic complaints about how the BOD handled the purchase of the office property, this will be sensitive issue and needs to go before General Membership prior to conducting any business relating to this property.

Perpetuity: Per the letter sent to Commissioner Parren requesting modification of 4-102(d) of the Calvert County Code, (letter attached) this change is not what was presented in the BOD meetings. The change presented leads one to believe that the community would still be involved in the budget process but the number of meetings will be reduced. The current law states:

“Any amendment to the boundaries or stated purpose of the special taxing district or to the levy set for the district shall be made only in accordance with the procedures set forth in this section for the original creation of the special taxing district.”

There is no BOD authority to raise the levy in the above statement. The proposed modification reads:

“Any amendment to the amount of levy set that exceeds the levy set forth for the original creation of the special taxing district by more than the increase in the CPI for the period in question shall be made only in accordance with the procedures set forth in this section for the original creation of the special taxing district. Reductions in the amount of the

original or subsequent levies will not require such procedures.”

The part of the above statement highlighted in red in essence says that the special district tax will follow the Consumer Price Index, meaning that when the County does their across the budget Cost of Living Increase, the DPPOA special district tax will follow suit. Thus, the BOD will not have to follow the current procedure to increase the special district tax. In addition to this, on the attached letter, the fourth paragraph states:

“The Association (meaning DPPOA) suggests the Commissioners support a relatively minor change in the STD law that would provide an adjustable STD with a process for yearly budget review by the Commissioners, perhaps imbedded within the normal County budget review process.”

In the sixth paragraph, the above statement uses the term “flexibility” as justification for this change. The closing on this letter implies that if the Commissioners approve this change then the BOD will “work out the details” with County staff, sounding like a done deal without going to the General Membership first.

As a Board member I am disappointed in the unethical manner in which information is passed on to Board members; fragmented and misleading. I, therefore want to put on record

here this 11th day of November, 2008, that I am withdrawing my “yes” vote on transitioning DPPOA’s STD to a perpetuity.

In closing, the current BOD for DPPOA appears to not understand that the Board’s customers are the residents at large and not members of the Board.

Respectfully,

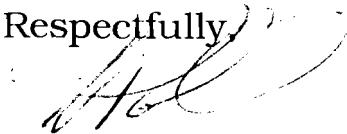
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