

# Friends of Harford

Citizens' Voice for Responsible Land Use

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## Fee-in-lieu - Where's the Money?

In some housing developments the County allows a developer to pay money instead of preserving acreage for open space. The idea is that in some developments, the open space area would be too small for good outside activities for the residents of the development. The fee-in-lieu option lets the developer place houses on that piece of ground instead.

For example, in Joppatowne, a 301 townhouse development is being built on 46 acres. The density of houses which are allowed to be built on one acre is normally 5 in an R3 district or 231 houses. This number increased to 7 houses per acre or 324 houses allowed to be built so that open space is preserved. These developments are normally found in areas where wetlands, rivers and marshes are on the site and where houses could not be built. The active open space which can be used for ballfields, community buildings or swimming pools for example should total 2.78 acres (less

than 6% of the acreage). Instead of providing the required 2.78 acres of active open space, the County has allowed

this development to provide only 1.19 acres (2½ % of the land) with a club house and pool on ¾ acre, and the remaining, less than ½ acre, will be a free play lot. The developer has or will pay the County a fee of \$79,500 instead of using the remaining required 1.59 acres for additional community active open space. That's about \$50,000 an acre. Instead of that active open space, eleven additional townhouses will be built allowing the developer to earn extra profit by having more units built in the development.

The fee (which is 110% of the price of a "raw" acre of land in the County) is placed in a fund. This fund is then used to equip other existing active open space areas in the County, e.g., school playgrounds, or to add to the existing acreage of an active open space area.

One would expect to find an easily accessible accounting of fees paid into this fund (and the expenditures from it) in County budgetary information. However, for the public to find how much money goes into this fund, the Department of Parks and Recreation sends one to the Department of Planning and Zoning. There one must ask for the file on a particular development be located and then read through to discover if a fee-in-lieu has been granted by the county. The fee-in-lieu amount will be noted in the file. There are thousands of development files at Planning and Zoning. One must

**\*\*\* ATTENTION ALL FRIENDS \*\*\*  
PLEASE JOIN US FOR  
A POT LUCK PICNIC  
SUNDAY, OCTOBER 7<sup>TH</sup> 1-5 PM.  
Eden Mill Nature Center Pavilion  
1617 Eden Mill Road, Pylesville  
www.edenmillnaturecenter.org**

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**Bring along your family, friends and  
YOUR favorite dish  
Plates and utensils provided  
\*\*\*\*\*  
No Alcohol Allowed  
Hope to see you there !  
r.s.v.p. please by October 1<sup>st</sup> (410) 692-6852**

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search each individual file for the fee-in-lieu information. Then developments must be sorted based upon geographical area.

To find out how the money is spent, one needs to review the Harford County Capital Expenses Budget book for all years when the developer pays the fee-in-lieu to the County. In each year's book, there is a separate line item for each separate Parks and Recreation project. Each project may or may not contain a line assigning revenue income as developer financing – fee-in-lieu. There is no way to determine from which specific development this fee-in-lieu money was received. Again, one has to sort all Park's projects by geographical area.

At that point, according to the Parks & Recreation Department, one theoretically should be able to see how much money was paid into the fund and where that money was spent. Considering the hundreds of thousands of dollars the County is receiving in just fees-in-lieu for Active Open Space fee, (Note that there are other fee-in-lieu options for other types of development projects) it seems there should be a better method for determining just how much income is derived from fees-in-lieu and where that money is spent, if it is spent and when and where it is spent. It is important that a detailed accounting be made to track these fees to ensure they are improving active open space for the residents of that area of the County.

Or, better yet, let's demand that all the active open space required under the code for each development actually be preserved and used for the benefit of the people who live there.

## **Baltimore Regional Transportation Outlook Plan 2035**

The list below is Harford County's "wish list" for transportation future projects starting in 2013. This list is assembled by the County Administration and adopted by the regional planning group.

### **Highway Projects**

- ✓ MD 24 - widen to 6 lanes from Singer Rd to Route 1 (2015)
- ✓ MD 22 - widen to 4 lanes from Route 543 to I-95 (2020)
- ✓ US 1 Bypass - widen to 4 lanes from Hickory Bypass to Route 147 with interchange improvement (2020)
- ✓ US 1 - widen to 6 lanes from Route 147/Business US 1 to Route 152 (2020)
- ✓ MD 715 - New 4 lane road from US 40 to MD 22 (2020)
- ✓ Perryman West- New 2 lane road from US 40 at Mitchell Lane to Canning House Rd (2025)

- ✓ MD 22 - widen to 6 lanes from I-95 to APG (2030)
- I-95 Section 200 - Add 2 Express Toll lanes each direction from MD 43 to MD 22. (2013)
- ✓ MD 24 - widen to 6 lanes from MD 7 to Singer Rd (2015)
- ✓ I-95 Section 300 - Add one Express Toll lane from MD 22 to Susquehanna River (2020)

### **Transit**

- ✓ Relocate and improve MARC Aberdeen station

*Friends of Harford* finds these plans sadly one dimensional. The only thought is to widen roads. Widening roads to ease congestion is a temporary fix at best. It has been proven by experience and studies that widening roads causes more development to occur around the "new" capacity created by widening. Within several years, the added capacity is gone and congestion has returned.

For that reason, FOH does not support widening of Route 22 outside the Development Envelope. Expanding Route 22 will pave the way for increased development and will lead to the loss of the current Development Envelope boundary.

The biggest contributing factor to the Route 22 congestion is the traffic generated by the ever expanding Harford Community College. Where once open space for school parking was abundant, that space is being squeezed by enrollment increases.

Route 22 could better accommodate college and other current traffic needs if satellite parking and shuttle buses were offered to and from the college, methods which are used in many campuses throughout the country. If we are to grow in enrollment, we should grow in ideas. This system would make it easier for students to commute to the local college. Those without a car and others with transportation difficulties would greatly benefit from a Harford County Community College bus system which could be an integral part of the county's own transit system.

Road creation and widening may have served us well after World Wars I and II, but those 20<sup>th</sup> century remedies are too short sighted for today's problems.

A public hearing on these transportation issues was held in August. Harford County was very well represented. Friends of Harford, Little Gunpowder Improvement Assn and citizens spoke against the widening of Route 22 and the lack of a decent transit system in the county connecting with other systems.

## Our Web News

We mentioned the update of our [www.FriendsofHarford.com](http://www.FriendsofHarford.com) web site in our Spring 2007 newsletter. We are not professional web designers; we are just volunteers having fun and trying to be helpful. We have had a few months operating and trying to improve our web site, so we thought we'd talk a little about it and look for some "customer feedback."

Our web site's home page is structured around topics of interest to Friends of Harford: major on-going processes, such as BRAC, updating of the zoning code, and transportation planning; and shorter term concerns, such as a new planned Mixed Office project. Click on the topic and a page dedicated to that topic will appear. That page will include an overview of the topic, links to relevant documents and sites and a discussion of Friends of Harford's opinions and concerns.

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[www.FriendsofHarford.com](http://www.FriendsofHarford.com)

Email us at:

[comments@friendsofharford.com](mailto:comments@friendsofharford.com)

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Our web site also provides links to county and state government sites, other helpful sites, and some basic tutorials on various land use planning topics. New pages, new and revised material and new links are frequently added. To help users keep up with changes without going through our entire site, a log of significant additions is also maintained on our home page under the heading "New on Web Site."

Visitors can also read "About Us," "Contact Us," and read our "FOH News," which includes our recent newsletters and events. Our goal is to bring together enough current information to allow our readers to develop informed opinions and participate in planning for our future. Check us out. Help us improve by providing feedback through our email address: [comments@friendsofharford.com](mailto:comments@friendsofharford.com)

### It's A Confused and Mixed (Up) Office Plan

Council Bill 05-39 As Amended approved a new MO Mixed Office zoning designation. Paragraph A. states, in the Purpose clause, "The MO District legislation is designed to promote major economic development opportunities, including but not limited to corporate offices,

research and development facilities and high-tech services which create significant job opportunities and investment benefits. This area may also include retail uses to service the employment center... Development will be subject to specific performance, architectural and site design standards." Paragraph (E)[1] states, "Retail and service other than professional services and corporate office uses may be incorporated into the overall project for up to 25%."

On July 31, 2007, members of *Friends of Harford, Inc.* attended a Community Input meeting to learn what is proposed for the James Run Office Project at Routes I-95 and 543. We believe that the Project is not in conformance with the intent of the MO legislation for several reasons, set forth below.

The concept plan which was presented by the developer, Kevin Carney, and his attorney, Joseph Snee, reflected three different, stand-alone projects: 1) a ten-store shopping destination which the presenters likened and compared to The Avenue at White Marsh; 2) an eight-story hotel and a bank; and 3) seven six-story office buildings. The centerpiece of the project is the shopping area fronting and centered along Route 543. It is obvious that the retail shopping area is the focal point of the plan because it is the first area upon entering the site off of Route 543, and because it has the same number of parking spaces that would be required if there were no offices or any other use on the site. Were this truly designed to be an office complex, the office buildings would be the focal point rather than the support retail uses.

As stated above in the Purpose clause, the corporate employment center is listed as the primary use of the site, retail uses are listed secondarily to support the employment center, and are limited to only 25% of the project. The developer's emphasis on retail uses was evident throughout the meeting and was heightened by his insistence that the marketplace will determine what is actually built and in what order. He refused suggestions to build the offices first, or to even build the retail concurrently with the offices they are intended to serve, in order to assure the offices represent the primary activity on the site, and to assure that the ratio of retail space to office space would not violate the 25% limit. Mr. Carney advised that the plan shown at the meeting was a "concept" plan and not necessarily what would ultimately be built. He mentioned many times that this project will be totally market driven, the market will dictate what the need is at the time, and if the need is more for retail than offices the retail will be built first. Therefore, we could well see this property improved with only retail and

restaurants for years until such time as the market dictates that additional office space is needed to meet the needs of BRAC off-base. This fear is further supported by Mr. Carney's comment that he might be willing to build one "spec" office building in the beginning to show prospective tenants. He explained that after many meetings with the Riverside community it is their desire to have several high-end restaurants in the project, therefore, he is looking for possible restaurant tenants (rather than office tenants). He also said the County would have a lot to say about what can and cannot be built.

Issue: Presently six-story buildings are not permitted in the MO District, yet the concept plan reflects six-story office buildings based on the developer's belief that he will be given an amendment to the law. We suspect that the six-story buildings are shown to gain the maximum retail/commercial space allowed with no assurance they will ever be built. It is our position that six-story office buildings in the midst of this rural/agricultural community, outside of the development envelope, would violate the provision in the MO legislation that require specific performance, architectural and site design standards, "to assure compatibility of the proposed land use with internal and surrounding uses by incorporating innovative standards of land planning and site design."

Issue: Retail is permitted as incidental to the MO project and not the primary activity on the site, We believe building the retail first violates the intent of the legislation. It is our position that the office complex must be built before or concurrently with the retail.

Issue: Retail uses may be incorporated into the overall project for up to 25%. It is our position that the allowable 25% of retail space cannot be calculated if it is unknown how much office space will be built.

Issue: There is no clear interpretation of what is meant by the language, "Retail and service other than professional services and corporate office uses may be incorporated into the overall project for up to 25%." It is our position that a clarification is needed as to what the 25% represents, i.e., 25% of each office building's footprint, 25% of the total square footage of office space, 25% of the total acreage of the parcel, etc., and whether or not parking lots are included in the space calculations. For example, if a shopping center and an office building have the same square footage, twice as many parking spaces are required for the shopping center as for the office building. This

project as it stands now has nearly half of its "built" land surface dedicated to retail sales if parking lots are included.

Issue: The MO may, "include retail uses to service the employment center." It is our position that limited retail uses allowed in the project are intended for the tenants and employees of the complex and not the general public. This will enable the elimination of retail-specific parking because the users will already have parking provided for the project's office buildings and hotel. Elimination of this unnecessary parking will alleviate the concerns voiced at the community input meeting by residents of the surrounding rural area by significantly reducing the traffic generated by the project.

Issue: The MO should not have the same 15% pervious surface requirement as is used in the Light Industrial District. It is our position that this should be more in keeping with the promised campus-like setting and suggest 50%. We believe that well proportioned, open land is a sign of quality. Protection of James Run and the Chesapeake Bay is a necessity.

Issue: Parking lots should be limited to the number required for the office complex and hotel. It is our position that If retail uses are subordinate to, and integrated into, the office and hotel structures, it would not only make it convenient for office tenants and hotel guests to walk to on-site retail and restaurants rather than having to drive, but it would also eliminate the need to calculate parking spaces under the retail formula. The use of parking garages should be considered if limited to the three-story height limit. Parking lots with pervious surfaces should also be considered to be more in keeping with the rural/agricultural surroundings and to enhance storm water management purposes.

Issue: The use of berms and increased buffer areas around the MO site would retain the integrity of the rural neighborhood and the attractiveness of the area for tenants in the office complex. It is our position that this MO project is an incursion "Outside the Development Envelope" and every effort must be made to guarantee that it retains the overall rural/agricultural character of the community, as described in the legislation. Another shopping center with the attendant acres of parked cars is a huge deterrent for future tenants.

The concept plan submitted at the Community

Input Meeting and the information provided by Mr. Carney and Mr. Snee, clearly depict a project that is not in keeping with the vision of the mixed office use described in the MO legislation. We ask that the County Council carefully scrutinize the Issues stated herein, with a view toward clarification of each Issue and/or amendment of the MO legislation to guarantee a campus-like setting compatible with the surrounding rural/agricultural community, rather than another shopping destination with an office complex as an after-thought. Harford County will not get a second opportunity to build our first MO complex.

## **Catch the Water and Save the Bay**

After almost every rain, our creeks and rivers turn brown as they carry soil particles towards the Chesapeake Bay. The brown water is not just unsightly, it is a visual reminder that the stormwater runoff is causing significant environmental damage.

The three main pollutants entering Chesapeake Bay from our rivers and streams are nitrogen, phosphorus, and soil particles. The nitrogen and phosphorus lead to algae blooms and areas of water without any oxygen. The soil particles become sediment that smothers bay grasses and bottom dwelling organisms like crabs and oysters. Most of the phosphorus in our creeks is attached to soil particles, so reducing the increased water flows from stormwater runoff will reduce two of the three pollutants going into the Bay.

In the past rainwater was viewed as a problem, to be piped off site as quickly as possible (or gathered into a pond and then piped off site). Rainwater that had previously been absorbed into the earth replenishing groundwater was immediately funneled into the creeks. The increased creek flows cause soil and streambank erosion, downstream flooding, and carried more pollutants to the Bay.

The Maryland General Assembly recently passed the Stormwater Act of 2007, which views rainwater as a resource instead of a problem. The new law requires the use of Environmental Site Design (ESD), with the goal of getting rainwater into the ground as close to where it falls as possible instead of piping it away.

With Environmental Site Design, a developer would not grade their entire site flat, but would keep natural low areas, allowing rainwater to collect in the low

### **Principle 3. Require a Unified Early ESD Map:**

*Require a unified ESD map and plan at time of earliest development plan concept design to ensure they are incorporated into initial site layout.*

### **Principle 4. Devise an Enforceable Design Process to**

area and seep into the ground. Narrower streets and driveways would reduce the amount of hard surface that keeps water from soaking into the ground. Environmental Site Design, sometimes called Low Impact Development, has been used in some places in Maryland for 15 years, but has not been required until now.

If it is implemented well, the new stormwater law will be a major step towards reducing the pollution of our creeks and rivers and the Chesapeake Bay. To encourage that to happen, Friends of Harford has joined with over 35 other environmental organizations and watershed associations to help promote 11 core principles for implementation of this important stormwater legislation. These principles recommend substantially raising the standard for the volume of water that must be infiltrated on site to recharge aquifers, thereby lowering the runoff into creeks. The principles also propose specific limits for nitrogen and phosphorus.

We believe the 11 core principles provide a strong basis for the Maryland Department of the Environment (MDE) to use in writing its regulations to implement the law. Once MDE issues its regulations, Harford County will need to amend its own stormwater regulations to comply. If the new law is implemented quickly and aggressively, the widespread use of Environmental Site Design will provide a significant improvement in the environment.

### **Principle 1. Develop an ESD Ordinance that Truly Changes Local Codes and Culture:**

*The model Environmental Site Design ordinance should provide specific benchmarks as to what constitutes effective environmental site design practices as defined in Table 1. The ordinance should require local governments to define the individual environmental site design practices they can currently offer and the specific development and redevelopment conditions where they apply within 90 days of passage. Local governments that fail to make systematic code changes within two years would lose their delegated authority for local stormwater and erosion and sediment control programs*

### **Principle 2. Establish Increased Onsite Recharge and Runoff Reduction Volumes:**

*Both the regulations and the manual should define increased recharge requirements and define an operational runoff reduction volume to ensure that ESD practices must be used first to solve stormwater problems.*

### **Require ESD:**

*Both the regulations and the manual should require ESD as the first step in site design, promote the use of a treatment train and discourage the needless use of curb and gutter and large diameter storm drain pipes.*

**Principle 5. Establish Nutrient- Based Stormwater Loading Criteria:**

*The stormwater regulations should contain specific and numeric performance criteria to assure the aggregate nutrient load delivered to the Chesapeake Bay and the Atlantic Coastal Bays from urban development is actually reduced over time. The regulations should establish a post-development phosphorus load limit of 0.25 lb/ac/yr for residential development and a 2.5 lbs/ac/year on total nitrogen load for all other forms of development.*

**Principle 6. Strengthen Performance Standards for ESD and Stormwater Practices:**

*Both the regulations and manual should contain stringent performance criteria for the design, installation and maintenance of all stormwater and ESD practices*

**Principle 7. Establish the Primacy of a Non-structural Approach to Erosion and Sediment Control and Post-Construction Stormwater Management:**

*Both the regulations and the manual should establish specific triggers to promote non-structural controls for permanent stormwater management and for construction. For permanent stormwater management, the regulations and manual need to maximize absorption of stormwater on-site through nonstructural, planning-based methods including clustering, site fingerprinting, and sheet flow to forested butters. For construction, the regulations and manual need to maximize use of: phasing, avoidance of work on steep slopes, clearing and grading restrictions, preservation of soils, retaining natural vegetative cover and trees and rapidly stabilizing soils during construction. These measures are considered an integral element of environmental site design. .*

**Principle 8. Turbidity Standards for Construction Sites:**

*Streams in Maryland need more effective protections from construction site sediment pollution. The protections needed are of both a narrative and a numeric nature. The regulations should establish numeric turbidity standards for runoff leaving construction sites and should also prohibit visible off-site discharges of sediment. The regulations should also define a maximum three-day time frame for local governments to respond to citizen reports of erosion and sediment control problems and take appropriate enforcement action to correct them. Failure to adhere to the three-day time frame would constitute an actionable offense.*

**Principle 9. Special Criteria for Sensitive and Impaired Waters of the State:**

*Both the regulations and the manual should define more stringent stormwater criteria to protect special watersheds*

*and maintain the biotic integrity of sensitive aquatic resources in the State. In addition, the manual should contain more stringent criteria to reduce pollutant loads to 303(d) listed impaired waters of the State.*

**Principle 10. ESD Training and Certification:**

*The regulations should establish a mandatory system of professional training and certification for ESD practices by the end of 2008 to ensure that both designers and plan reviewers fully understand and correctly apply the new techniques. Existing Green Card training programs should be enhanced to provide training on installation and maintenance of ESD practices during and after construction.*

**Principle 11: Financing Implementation of the Act**

*The transition to ESD will require considerable financial and staff resources at the local and State level. We encourage the state to review the existing stormwater fee system as outlined in Title 2 of the Act to ensure that fees are updated to fully recover the costs of implementing the changes, including costs for expanded stormwater research, establishing an ESD training and certification program, and increasing compliance and enforcement staffing*

**Zoning Code Update**

Every other Monday from 2 to 4 pm, the Zoning Code Update (ZCU) Work Group meets to discuss parts of the proposed new code as presented by the Department of Planning and Zoning. The Work Group is comprised of representatives from various state and county organizations chosen by County Executive David Craig to “help ensure that the Zoning Code is updated in a manner that will promote the visions and goals of the adopted 2004 Harford County Master Plan.”

While Friends of Harford is very pleased to be chosen as a member of the Work Group, it is one of 23 total members, a large majority of whom are members of the development and real estate industries. Changes to the Draft Code are being made by majority rule. It does not appear that innovation and progressive solutions to old problems have been made goals of the rewrite process. There is no innovation in the draft plan the group has studied so far.

Friends of Harford is writing a draft code update in tandem with the ZCU Work Group and making it available to citizens and Council members alike. It is posted on our web site. We welcome your comments and revisions. If you know of a city or county with good aesthetic code designs, let us know. Take part in this

rewrite now. Don't wait until next year when the Department of Planning & Zoning intends to present this as legislation. We are your representatives on the Zoning Code Work Group. Let us know what you think the Harford County of the future should look like.

### **Friends on the Farm Day**

The first ever Friends on the Farm day sponsored by the Friends of Harford at Applewood Farm was a huge success! During the afternoon of July 22<sup>nd</sup>, our event staff of 20 FOH volunteers welcomed the crowd of nearly **800** visitors on a picture perfect mid summer day.

Early arrivals to the farm were directed to the Reindeer Pen where FOH President, Sally La Barre, welcomed the public to the event and spoke of the mission of the Friends of Harford. Following Sally's "Friends" intro., Applewood's owner Brian Adelhardt then introduced the public to "Baby Millie" the newest addition to the farms reindeer herd, and gave a presentation on the breed also.

Applewood's petting zoo, pony, hay, carriage and train rides offered fun for folks of all ages while storytelling, crafting, face painting, games, a kiddie maze, the MAEF trailer and other activities entertained the kids especially. The band, Circle of Fire provided great live music throughout the day and Outlaw Caterers and Broom's Bloom provided a wide variety of food also.

The venue provided the perfect spot for local artists Michelle and John Sauers to set up their easels and capture the essence of the day. John generously donated to FOH the resulting landscape of Applewood's rolling hills and panoramic sky which was then presented to the Adelhardts as a token of our appreciation for all their guidance and generosity in regards to their support for FOH. We were pleased to be joined by the following exhibitors, entertainers, vendors and organizations and wish to express our sincere appreciation for your participation:

Abecedarian Books, Anita Leight Estuary Center, Best Fairy Books, Broom's Bloom Dairy, Chesapeake Bay Foundation, Conservation Corp / D.N.R., Circle Of Fire, Friends Of Aberdeen, Future Farmers Of America, Harford Forestry & Conservation Bd., Harford County Cultural Arts Board, Harford Land Trust, Harford County Master Gardeners, Harford Poetry Society, MD.AG.ED. Foundation (MAEF), Outlaw Caterers, Doug Howard &

family, John Sauers & Michele Sauers

Thanks to such partnerships and the sharing of mutual interests, event participants were provided with many educational and entertaining activities while enjoying the rural beauty of Northern Harford County.

Visitors to the Friends of Harford tent viewed zoning maps and were offered a variety of informational pamphlets generated by the FOH. Educational Committee. FOH Board Member Fred Silva represented the Friends of Aberdeen also. Special thanks to the Education Committee members: Mark & Susan Joslin and Morita & Bob Bruce for producing the displays & handout materials. Thanks also to our event media consultant & advertising team of Stephanie Stone and Lee Crush for producing posters, flyers, articles, etc. Everything was very well done! Thanks also to Sally La Barre for her outreach efforts. The generosity of so many FOH Board, Advisory Board, members, organizations and corporations greatly enhanced our fundraising goals and was greatly appreciated. Thanks also to Harford Sanitation who provided a free dumpster and Hall's Honey Pots for greatly reducing their rental fee as well.

FOH is also grateful to the following organizations, corporations and individuals for providing FOH with raffle donations: Eden Mill Nature Center, Conversation Studio, The Blue Crab House, Harford Glen, Applewood Farm, Harford Land Trust, Green Roof Plants, Bestfairy Books, Anita Leight Estuary Center, Department of Natural Resources, Dave De Ran, Harford Poetry Society, Digital Expressions, Quigley Farm, Village Peddler, Country Dollar Store, Saubel's Markets, Hemphill's Nursery, Kollar's Nursery, Harford Poetry and Literary Society, Barbara Kobler, Judy Bates

Revenue for FOH was generated through the sale of both ride & raffle tickets, new FOH t-shirts, FOH's newly printed KEEP US RURAL & RESPONSIBLE LAND USE yard signs, generous public and private donations and new memberships. Again, thanks to everyone who volunteered before, during and after the event, our supporting and new members, corporate sponsors and the public who joined in making this event such a remarkable success. Having enjoyed such an overwhelming response, folks immediately suggested it become an annual affair so, stay tuned & feel free to volunteer early!