

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
March 23, 1999**

Present: Commissioner President Julie B. Randall
Commissioner Joseph F. Anderson
Commissioner Shelby P. Guazzo
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley
Mortimer L. Smedley, Acting County Administrator
Judith A. Spalding, Recorder

CALL TO ORDER

The meeting was called to order at 10:00 a.m.

ADDITIONS/DELETIONS TO AGENDA

Commissioner Mattingly moved, seconded by Commissioner Anderson, to accept the agenda as amended (to delete Metropolitan Commission). Motion carried.

APPROVAL OF CHECK REGISTER

Commissioner Mattingly moved, seconded by Commissioner Raley, to authorize Commissioner Randall to sign the check register, as presented. Motion carried.

Questions raised on the bills included Frederick News (Finance will check on); and that it was important to make every attempt to use vendors within the County.

APPROVAL OF MINUTES

Commissioner Guazzo moved, seconded by Commissioner Raley, to approve the minutes of the Commissioners' meeting of Tuesday, March 16, 1999 as presented. Motion carried.

EXECUTIVE SESSIONS

Commissioner Anderson moved, seconded by Commissioner Raley, to meet in Executive Session to discuss matters of Personnel and Potential/Pending Litigation, as provided for in Article 24, Section 4-210(a)1 and 8, respectively. Motion carried.

Personnel (Employment Contracts)

Present: Commissioner President Julie B. Randall
Commissioner Joseph F. Anderson
Commissioner Shelby P. Guazzo
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley
Mortimer Smedley, Acting County Administrator (left session at 11:00 a.m.)
Douglas Durkin, County Attorney (attended from 11:00 a.m. to 11:07 a.m.)

Authority: Article 24, Section 4-210(a)1
Time Held: 10:30 a.m. – 12:04 p.m.

Action Taken: The Commissioners discussed employment contracts and agreed to take action in open session.

(Because of time constraints, the Commissioners did not have time to do the pending/potential litigation.)

COMMENDATION

The Commissioners presented a Commendation to Leonardtown High School Girls Varsity Soccer Team whom are State Champions.

COUNTY COMMISSIONERS' TIME

Employment Contracts

Commissioner Randall made the following announcements as a result of the referenced Executive Session.

- That the Commissioners agreed to give a two-year contract to Mortimer L. Smedley, current Acting County Administrator, in the position of County Administrative, effective March 22, 1999.
- That the following contracts that were up for renewal were given a one-year extension: Martin Fairclough, Director, Economic and Community Development; Gene Carter, Director, Office on Aging; Cynthia Brown, Director, Office of Community Services.
- That the County Attorney Durkin will be vacating his position as County Attorney on April 6, 1999. The Commissioners will determine how to proceed to replace Mr. Durkin.

Information Releases will be made available later in the meeting.

Agricultural/Seafood Commission/Farm Bureau Farming Demonstration

Commissioner Guazzo commended the Agriculture/Seafood Commission and members of the Farm Bureau for bringing to the County on March 22 a gathering of equipment and farmers to have an awareness demonstration on how important our agricultural endeavors are to the community.

TRAFFIC ISSUES (ROUTE 235 AND ROUTE 5)

Present: George Erichsen, Director, DPW
Phil Cooper, Safety Coordinator, EMA
Paul Armstrong, District Engineer, SHA
Lt. Doug Slacum, MSP
Sgt. David Zylack, Sheriff's Office

The referenced individuals appeared before the Board as a follow up to previous discussion relative to the handling of traffic when there is an accident on Route 235 and on Route 5. Mr. Erichsen explained that the agencies met several times to discuss the Commissioners' concerns and the plans/programs that are in effect.

Areas of discussion included the handling of roles, responsibilities, and interaction among agencies (including use of two-way radios and cell phones); comparisons of injury, property damage on Routes 4 and 235 from 1995 through 1998; collision causes (Route 4 to Route 245 and Route 4 to Route 246); reportable accidents; fatal crashes; policies and procedures for traffic accident investigations (dispatching patrol units, ambulance, etc.); use of courtesy car; detour planning; response time; traffic control plans; incident management plan and team coordination; accident reconstruction; concerns regarding neighborhood speeding, going through red lights (MSP has been patrolling certain intersections three days a week at certain hours to catch divers going through red lights), driver error .

Copies of the handouts are filed in the Commissioners' Office.

COUNTY ADMINISTRATOR

Present: Mortimer L. Smedley, County Administrator

- Draft Agendas for March 30, 1999, April 6, 1999 and April 13, 1999

1. **Budget Amendment No. 99-30 – Department of Human Resources**
(Funds for Advertising for remainder of Fiscal Year - \$10,000)

Commissioner Guazzo moved, seconded by Commissioner Mattingly to approve and to authorize Commissioner Randall to sign Budget Amendment No. 99-30. Motion carried.

2. **Child Support Cooperative Reimbursement Agreements**

Also present: Barbara Dotson, Fiscal Analyst, Sheriff's Department
Michael Stamm, State's Attorney's Office

- a. State's Attorney's Office
(Total Cost - \$282,736 (less administrative fee retained by State (\$10,393))
- b. Sheriff's Department
(Federal Funds: - \$120,572;
County Funds (which have been budgeted): \$73,204)
- c. Circuit Court
(Total Cost - \$84,328 (less administrative fee retained by State - \$3,186))

Commissioner Anderson moved, seconded by Commissioner Raley, to approve and to authorize Commissioner Randall to sign the Agreements as presented. Motion carried.

3. **Office of Community Services**

Letter to Director approving the revised bylaws and merger between the Community Services Coordination Committee and the Mental Health, Substance Abuse and Victims Advisory Council

Commissioner Raley moved, seconded by Commissioner Guazzo, to approve the revised bylaws and sign letter to Director of OCS as presented. Motion carried.

4. **Wet Season Soil Evaluation Update**

Also Present: Tom Russell, Director, Environmental Health

As a follow up to previous discussion, Mr. Russell appeared before the Board to advise that wet season soil testing will begin immediately because of the recent rains. Mr. Russell pointed out, however, that the level of rains has not been what it normally would be during wet season testing. He advised that the sanitarians will be working ten - hour days in order to complete the wet season soil testing.

5. **Employment Contracts**

As a follow up to the announcements made during County Commissioner Time, Commissioner Mattingly moved, seconded by Commissioner Guazzo, to approve the Employment Contracts for Cynthia Brown, Director, Office of Community Services; Gene Carter, Director, Office on Aging; and Martin Fairclough, Director, Economic and Community Development. Motion carried.

6. **Personnel Action/Sheriff's Department**

Commissioner Mattingly moved, seconded by Commissioner Raley, to promote Keith Fretwell from Deputy First Class to Corporal to fill vacancy, effective immediately.

ANIMAL WELFARE LEAGUE

Present: Dick Myers, SMAWL
Lorraine Greenfield, "

The referenced individuals appeared before the Board to update the Commissioners on the need for an animal shelter in St. Mary's County and the importance to move ahead on this project.

Mr. Myers' presentation included:

- On the supply side there are too many animals and not enough spaying and neutering; on the demand side there is a need for more foster homes for these animals;
- That the best run shelters are those that are run by citizens, and these shelters provide a better service to the community;
- Because of problems encountered at Tri-County Animal Shelter over the years, SMAWL made a decision to proceed with a shelter for St. Mary's County;
- Proposals made to the County; a change in zoning regulations to allow shelters in the County was required and accomplished; county staff was requested by the Commissioners to work with SMAWL in developing a contract;
- A contract prepared by the County with no input from SMAWL was presented in December;
- SMAWL had problems with the contract in two areas: Method of Payment (per animal rather than a fixed amount as is currently given to the Tri-County Animal Shelter) and Oversight (suggested that an animal control committee be established, and this committee would regularly submit written reports to the Commissioners about operation of the shelter); operation of the shelter should be done by the contractor;
- That although SMAWL has concerns about euthanasia of animals, the members do realize that it is inevitable, but would do so only if needed (there will not be a request later for expansion of the shelter because of SMAWL's concerns about euthanasia);
- That land has been donated to SMAWL for a shelter, which is contingent upon the land passing a "perc" test, and the property must also go before the Board of Appeals. If this land is not workable, SMAWL will be requesting the County to provide land;
- That the cost of the shelter, a modular unit with 50 dog runs and 50 cat units, is estimated at \$300,000, and SMAWL has currently raised \$75,000 and will continue fund raising efforts.
- That the County currently provides \$160,000 to the Tri-County Animal Shelter (\$180,000 has been requested for 2000); and SMAWL is requesting \$200,000 for operation of the shelter.

In completing his presentation Mr. Myers requested that the Commissioners designate a staff person to work with SMAWL and decide the mechanism in developing the contract.

In conclusion Ms. Randall requested (1) that once the "perc" test has been completed and the project has gone before the Board of Appeals, SMAWL come back to the Board; and (2) that the County Administrator review the changes proposed by SMAWL in the contract and work with the president of the organization to discuss the changes. Commissioner Guazzo questioned state rules and regulations about private shelters and whether there were standards to be followed.

COMPREHENSIVE LAND USE PLAN

All Commissioners were present. DPZ staff present were Jon Grimm, Director; and Peggy Childs, Recording Secretary.

Mr. Grimm presented maps showing the Number of Vacant Parcels in the county and Potential Rural Development, in response to the Commissioners' requests during the recent Comp Plan Work Sessions. The maps illustrate the following, as stated in Mr. Grimm's memo of 3/22/99:

All vacant lots and parcels of record, county-wide, 1998	9,962	
All vacant lots and parcels of record, <i>rural only</i> , 1998		6,069
New lots with final plan approval, grandfathered 1 year	1,107	
New lots with final plan approval, grandfathered 1 year, <i>rural only</i>		522
New site approvals/lots with preliminary approval, grandfathered 2 years	976	
New site approvals/lots w/preliminary approval, grandfathered 2 yrs, <i>rural only</i>		274
Density available in approved PUDs	8,695	
Density and vacant lots in approved PUDS, <i>rural only</i>		<u>1,440</u>
Total lots and approved density in county	<u>20,740</u>	<u>8,305</u>
<i>Minus lots in rural area which probably will not perc (estimate)</i>		<u>3,000</u>
<i>Approximate total of developable lots in rural area</i>		<u>5,305</u>

Based on the buildable table contained in the plan, the total number of new lots which could be developed under the January Draft, *if everyone subdivided their land*, is estimated at approximately 71,000.

Following discussion of this information, Commissioner Raley stated one of the candidates' main themes in the recent election was the need to get a Comp Plan adopted as one of the commissioners' first priorities. They also said they would look at the issues, try to get as much information as possible and ascertain all the facts, and try to reach a good decision that would benefit the entire citizenry of the county, and he thinks the commissioners have done that with the comprehensive plan. They have been in office 100 days and have given it their attention – they have held work sessions with the Planning Commission and among themselves, they have talked among themselves and with the public and have tried to get as much information as they could about the proposed plan.

Mr. Raley said the January Draft that is on the table has a lot of plusses and it has some minuses, and looking at where we are now with regards to time, taking into account the information Mr. Grimm has given the commissioners, taking into account that if they sent the existing plan back to the Planning Commission they might get back a product they would still not all be 100% in favor of, he offered the following motion:

Having taken into account that the Planning Commission, on January 20, 1998, sent to the previous Board of County Commissioners a Draft Comprehensive Land Use Plan for the county; and

Having taken into account that the previous board of county commissioners, on March 24, 1998, remanded the Draft Plan to the Planning Commission with listed areas of concern; and

Having taken into account that, on January 12, 1999, this Board of County Commissioners voted, without dissent, to rescind the previous board of county commissioners' motion remanding the January Plan to the Planning Commission,

Mr. Raley moved for approval of the Draft Plan submitted by the Planning Commission on January 20, 1998.

The motion continued that the Action Items contained in the Plan shall only provide general guidance for the preparation of the required standards and regulations necessary to implement the requirements of Article 66B, and that additional public hearings shall be required prior to the enactment of any of these provisions as ordinance or regulation.

The motion was seconded by Mr. Anderson.

The Commissioners' discussion on the motion concerned the Action Boxes. Commissioner Mattingly asked for their removal, saying they are the biggest obstacle to approving the plan and as long as they remain they will send the *wrong* signal that they are part of the document and provide instructions to implement it. Commissioner Randall agreed with his concern, but both she and Mr. Raley said based on legal opinion, including one from the Attorney General, removal of the action boxes entirely would open the county up to potential legal challenge. Commissioner Anderson said the action items should provide guidance to the preparers of the Unified Code, which will be debated through the public process, and will stand or fall on the will of the people, the will of the commissioners, and the recommendation of the Planning Commission.

Commissioner Guazzo asked that language similar to the Sensitive Areas Resolution be used; i.e., the action boxes "... provide general guidance *and basis* for preparation of the required standards and regulations necessary to implement the requirements of Article 66B." She said she thinks those words "*and basis*" are necessary, because they are the basis for the plan and the provisions in the plan that were vetted through the public process, as all the "whereases" state in the Sensitive Areas Resolution. Other commissioners disagreed. Mr. Mattingly asked if the commissioners can go back and remove the action boxes after the Unified Code is adopted? Ms. Randall said she thought that would be very appropriate.

Mr. Raley said he has prepared a draft letter to the Planning Commission containing suggested items for them to consider changing in the approved plan. Ms. Randall agreed, stating for the record that she will support sending a letter to the Planning Commission that says, once the Unified Code is adopted, please remove the action boxes from the comprehensive plan.

Ms. Randall called for the question, and the motion passed by a vote of 4-1. Commissioner Mattingly voted against.

Following the vote, the commissioners discussed a list of proposed changes to be forwarded to the Planning Commission. Mr. Raley said he has 5 or 6 items which he would like to circulate to the commissioners for their review, with an eye toward, hopefully, approving the list next week. Ms. Guazzo said this is the way it should work; the Plan should always be a work in progress. Commissioner Randall said she would like to go on record requesting the following:

- (1) Inclusion of the Purchased Development Rights and Open Space fees-in-lieu of TDRs and PDRs so that, over time, we can build up a fund to purchase agricultural land to retire and keep agricultural.
- (2) Draw circles of 1 mile, ½ mile, or whatever the commissioners can agree on, from the perimeters of our Development Districts, and Village and Town Centers to allow step-down development (high-density to lower density) to occur within those areas through the use of TDRs.
- (3) Change the public safety paragraph to reflect more of a policy than specific response time.

Mr. Mattingly asked that "fee" to be changed to "compensation." He also asked that individual properties not be downzoned from commercial, stating he doesn't know where

they stand in the document, but if we're going to do something that impacts a property's zoning, especially downzoning, those people should be notified so they can defend their rights. He said he wasn't sure why the properties were selected for downzoning, and he would like to see that entire list before the commissioners approve it. Mr. Grimm replied the maps are not a part of the Plan document but the Planning Commission's recommendation included the 74 letters requesting rezoning that were property specific. It would be appropriate, if the commissioners choose, to give further direction to the Planning Commission with regard to preparation of the maps. Ms. Randall replied she saw nothing regarding downzoning in the Plan and she thought that would be part of the Unified Development Code, which the commissioners have yet to consider.

Mr. Grimm replied the Sensitive Areas Element adopted by the previous Board stated the Leonardtown Development District to the west of the corporate limits (the McIntosh Run area) should be downzoned. What is absent is any specific identification of individual properties, and from what zone to what zone it should be changed to. The general guidance in the plan is that those areas should be put in the rural zone. He said the Commissioners could give direction in Mr. Raley's letter, or make another motion directing the Planning Commission that anyone who has a commercially zoned property today would not be downzoned or, if there were to be a downzoning, that those property owners would be notified and have an opportunity to come forward. He added, however, that the action the Board just took in adopting the Plan does not downzone anyone's property.

Commissioner Raley's second motion concerned the Lexington Park-Tulagi Place Master Plan which was sent to the previous board of commissioners in January 1998. The Tulagi Plan is referenced in the Comp Plan, and Mr. Raley said we need to get it adopted for that reason and because it will open up some funding and grant opportunities for the Lexington Park area. He said he is aware that the Tulagi Plan is somewhat weak, but he thinks we should adopt it and then work with the Planning Commission to get it to what we want it to be.

So saying, Mr. Raley moved that the Lexington Park-Tulagi Place Master Plan presented to the previous Board in January 1998 be approved.

Mr. Anderson seconded the motion, adding while he certainly believes the Tulagi Place Plan presented in 1996 is a stronger, clearer, more effective, and better document than the 1998 plan, he will support the motion because it is in the best interests of the county to have a plan in place and take advantage of grant and revitalization monies. But he also expects that we need to turn our attention to the plan and make it as good a planning document as we can. Ms. Guazzo concurred with Mr. Raley's evaluation, stating this plan was greatly weakened by the previous board of commissioners, but to get it addressed in the future we need to pass it. Ms. Randall agreed, saying she doesn't want another day to go by that we can't apply for money for revitalization of Lexington Park.

Ms. Randall called for the question and the motion approving the Lexington Park-Tulagi Plan Master Plan passed by a vote of 5-0.

Len Greess, speaking from the audience, noted that the Navy has endorsed the 1996 Tulagi Plan, not the 1998 Plan, and the Base is very much *not in favor* of the '98 Plan. Ms. Randall advised that Mr. Greess' comments will be considered during the Commissioners' Public Forum, which will be held at 6:30 p.m. today.

Commissioners Randall and Anderson noted that the commissioners have adopted the Comp Plan and the Tulagi Plan today, and they felt good about that, even though there will be changes needed to both plans. Commissioner Raley stated the commissioners have been in office for 100 days and have been criticized for not getting more accomplished, but today they made several personnel decisions that he thinks will benefit the county and decisions on the Comp Plan and Tulagi Place Master Plan, and they're doing things the right way, after due deliberation.

PUBLIC FORUM

Announcements

Prior to the commencement of the public forum, Commissioner Randall announced some of the actions that were taken earlier in the meeting (adoption of January 1998 Comprehensive Land Use Plan; Adoption of the 1998 version of the Lexington Park Master Plan) as well as personnel actions taken (gave a two-year contract to Mortimer Smedley in the position of County Administrator; announcement that the Commissioners will not be renewing the contract with County Attorney, Douglas Durkin; Mr. Durkin will remain with the County until April 6; and LGIT will be providing legal service until a replacement is selected; contracts were renewed for one year for Director of the Office of Community Services; Director of the Office on Aging; and the Director of the Department of Economic and Community Development.

Lexington Park Master Plan

Jon Grimm, Director of Planning and Zoning, provided a brief overview of the Lexington Park Master Plan.

Public Forum

The Board of County Commissioners conducted the monthly public forum. Questions/comments from the audience included:

Norris J. Hanks – Submitted recommendation for TDR Program that keeps all densities, districts, overlays, subdivisions, farmsteads, etc.

Keith Fairfax (Member of the '96 Lexington Park Master Plan Committee)— Referred to the adoption of the '98 Lexington Park Master Plan; pointed out that the '96 Plan was a stronger plan; and offered assistance to work with the County on the plan;

Lisa Durst – Thanked the Commissioners for their concerns regarding Persimmon Hills III project, and expressed concerns regarding waivers approved by DPW. (Commissioner Randall responded that the Commissioners have not yet made a decision on the Persimmon Hills Project; Commissioner Guazzo indicated that this was a good example of what needs to be addressed in the Unified Code.)

Elfreda Mathis - (Member of the '96 Lexington Park Master Plan Committee) Spoke in favor of the '96 Plan and offered support and assistance to the Commissioners. Individuals who worked on Plan are willing to assist.

Barbara Thompson – Congratulated Commissioners on adoption of Plans; expressed concern that the Board adopted something they intend to amend.

Elizabeth Weaver – Expressed appreciation for passing the Comprehensive Plan and Lexington Park Plan; expressed concurrence with Mr. Fairfax and Ms. Mathis that the County needs to stay with the Plan and need to follow up with providing needed resources; county needs to make Lexington Park a viable business district and keep in mind people who live there; comprehensive plan is meaningless without a zoning ordinance and public should be allowed to participate in the process.

(Mr. Grimm provided the process for the adoption of the zoning ordinance—county has a consulting firm and law firm working with the County; within 90 days there will be an administrative draft and in 30 days there will be an outline of the contents of the document; BOCC and Planning Commission will work to implement comprehensive plan; there will be a series of public hearings and the ordinance should be adopted within six to nine months.)

Clare Whitbeck – Thanked Commissioners for having forums, adopting comprehensive plan, and thanked Jon Grimm for getting numbers of available lots in the County; pointed

out that Leonardtown turned down the "Shops at Leonardtown" because the Council believed it was good for the Town, and she suggested that the County take the same stance—to do what is good for the County as a whole.

Charles Hurley – Expressed concerns about the treatment of Charles Mattingly by the Sheriff's Department. (Commissioner Randall encouraged him to contact the Sheriff, and that the Commissioners would also bring it to his attention.)

Telephone calls were received concerning adoption of plans and citizen input (there will be public hearings); rumor about a prison being built in Mechanicsville (correctional institutions are prohibited in the County); request to keep \$25,000 in budget for employees' appreciation and \$25,000 for millennium celebration in budget; qualified people are not being selected for boards because of personal differences (Commissioners have not voted against anyone, and they are still in the process of considering appointments); expression of appreciation for adoption of Comp Plan; parking concerns in area of ballfield by the Navy base or ballfield should be closed; signal at base excessively long and people are running the red light (staff to request Mr. Erichsen to look into this); animal shelter in the county; what is R&P doing about boat ramps (R&P has list of boat ramps with recommendations as to what needs to be done to make those with problems useable).

Dora Zimmerman – Expressed concerns about the Summitt Hill III proposal to have access across the wetlands; there is an appeal hearing in Baltimore requesting overturn of MDE's decision to deny access. (Mr. Grimm is to find out status of appeal.)

ADJOURNMENT

The meeting adjourned at 7:55 p.m.

Minutes Approved by the
Board of County Commissioners on 3/30/99

Judith A. Spalding
Judith A. Spalding, Recorder