

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
Governmental Center
Tuesday, October 17, 2000**

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

(Commissioner Anderson was not present at the beginning of the meeting.)

CALL TO ORDER

The meeting was called to order at 10:05 a.m.

ADDITIONS/DELETIONS TO AGENDA

Commissioner Mattingly moved, seconded by Commissioner Raley, to accept the agenda as amended (to add an executive session on personnel). Motion carried.

APPROVAL OF CHECK REGISTER

Commissioner Mattingly moved, seconded by Commissioner Guazzo, to authorize Commissioner President Randall to sign the Check Register. Motion carried.

APPROVAL OF MINUTES

Approval of Minutes of 10/10/00 was deferred until next week.

AICUZ DISCUSSION

Present: Alfred A. Lacer, County Administrator
Jon Grimm, Director, Department of Planning and Zoning
John Norris, III, Assistant County Attorney

Mr. Lacer explained that the Air Installation Compatible Use Zone (AICUZ) covers certain property in the vicinity of the Patuxent River Naval Air Station for purposes of controlling residential and commercial development within that area. He pointed that the AICUZ is a provision which has existed for a number years in the County's Zoning Ordinance for the health, safety and welfare of the public as well as protection of the Navy's mission and approaches to the Naval Air Station.

Mr. Lacer pointed out that staff is recommending drafting possible amendments and enhancements to the Zoning Ordinance for the Commissioners' consideration and for a future public hearing.

Mr. Lacer further advised that the staff will draft ordinances for the Commissioners' consideration with amendments/enhancements addressing non-conforming uses within the AICUZ and addressing a possible amortization process for duplex and multifamily residential uses that exist within the defined AICUZ area.

Mr. Grimm explained that staff will look at the Lexington Park area, specifically the Tulagi Place, Millison Plaza and other areas in terms of the AICUZ for possible health, safety and welfare issues and for the protection of the mission of the Patuxent River Naval Air Station. He stated his office will be putting together a list of non-conforming uses in the AICUZ and will develop a specific overlay for nonconforming

purposes, a process that has been used by the County in other programs; e.g., critical areas and the floodplain overlays. The Ordinance could be broad for all non-conforming uses, very narrow for specific non-conforming uses, or for health, safety, and welfare of the public and protection of the Navy. Mr. Grimm noted that high density residential uses has been shown to be a detriment to the health, safety and welfare, and that this should be taken to public hearing to address this particular issue. Any Ordinance or Amendment will include an appeal process.

Mr. Grimm stated that after an analysis, he would be more prepared to explain the proposals to either further define non-conforming uses, to further define whether units are occupied or vacant, and/or whether they are determined to be abandoned. A proposed ordinance will also define what constitutes "abandonment." Another issue is the possibility of amortizing or eliminating non-conforming uses based on economic analysis.

Mr. Grimm further pointed out that staff will be working with the Livability Code—by proposing that Certificates of Occupancy be required before any vacant non-conforming structure or unit could be occupied to ensure that the residents have safe and adequate housing in which to live.

(Commissioner Anderson entered the meeting – 10:30 a.m.)

In conclusion Mr. Lacer indicated that the draft Ordinance(s) will be forwarded to the Commissioners by the end of October, after which staff will return to get the Board's concurrence to take the draft(s) to public hearing.

OFFICE OF COMMUNITY SERVICES COMMUNITY SERVICES DAY

Present: Cynthia Brown, Director

Ms. Brown appeared before the Board to announce that Saturday, October 21, 2000 will be Community Service Day the purpose of which will be to promote awareness of volunteerism throughout the County. Projects for the day include clothes protectors for the Nursing Center; donation of stuffed animals to the Children's ward at the hospital, coordination of the Blood Drive, and coordination countywide of the Food Drive to replenish soup kitchens and food pantries in the community.

AGRICULTURAL LAND PRESERVATION DISTRICTS

Present: Donna Sasscer, Agricultural Seafood Specialist

The Commissioners conducted a public hearing on the following ALPD applications:

- #00-150-019 – Ancel G. Jones (Moll Dyer Road)
- #00-150-020 – Lawrence E. Rowland (Beems Lane)
- #00-150-021 – Willilam M. Hayden (Oscar Hayden Road)

In response to a request by Commissioner Randall, Ms. Sasscer outlined the criteria for qualification into the ALPD program, including number of acres (100 contiguous acres); cannot be in the 10-year water and sewer category, and must meet soil requirements.

The public hearing was opened for comments from the audience:

Lawrence Rowland – indicated that the area was the site of many farms and is in one of the most sensitive areas of the County and expressed the importance of preserving this land. He pointed out that the land is part of the largest timber tract in the county, and referred to proposed legislation to remove the timber transfer tax. The Commissioners requested Ms. Sasscer to attend the October 24 legislative package public meeting to offer comments on this legislation.

Ancel Jones – Stated he was not interested in developing the land except for his daughter and granddaughter.

Hearing no further comments, the public hearing was closed.

Commissioner Guazzo moved, seconded by Commissioner Mattingly, that finding that ALPD #00-150-020, Lawrence E Rowland property, meets the Maryland Agricultural Land Preservation Foundation criteria, the Commissioners recommend that the property be forwarded to the MALPF for district establishment and easement sale. Motion carried.

Commissioner Guazzo moved, seconded by Commissioner Mattingly, that finding that ALPD #00-150-019, Ancel C. Jones property, meets the Maryland Agricultural Land Preservation Foundation criteria, the Commissioners recommend that the property be forwarded to the MALPF for district establishment and easement sale. Motion carried.

Commissioner Guazzo moved, seconded by Commissioner Mattingly, that finding that ALPD #00-150-021, William M. Hayden property, meets the Maryland Agricultural Land Preservation Foundation criteria, the Commissioners recommend that the property be forwarded to the MALPF for district establishment and easement sale. Motion carried.

RIBBON CUTTING CEREMONY CHAPTICO WHARF PUBLIC LANDING

The Commissioners left to attend the ribbon cutting ceremony for improvements at Chaptico Wharf Public Landing.

(Kathy Bailey served as recorder for this portion of the minutes.)

PUBLIC HEARING DISPOSITION OF REAL PROPERTY/CLOSURE OF PUBLIC ROAD FOR PROPERTY ADJACENT TO THE ST. CLEMENT'S ISLAND-POTOMAC RIVER MUSEUM

Present: Phillip D. Rollins, Director, Recreation and Parks
Jerry McDonough, Real Property Administrator, Maryland Department of Natural Resources
Joan Lolcama, Real Property Manager
Michael Humphries, Museum Director
John Norris, Assistant County Attorney
Herbert and Jacqueline Birckner

Mr. Phillip Rollins read the Notice of Public Hearing for the quit claim transfer of approximately 0.135 of an acre (5,795 square feet) of land adjacent to the St. Clement's Island-Potomac River Museum and closure of a portion of Maryland Avenue, a previously platted street. The notice was published in The Enterprise newspaper on September 20, September 27 and October 4, 2000. Additionally, the notice was posted in three public places (local post offices) and at the site. The notice, the certification of publication and quit claim plat were entered into public record.

Mr. Rollins explained that the area of quit claim represents a 5,795 square foot site used by the County and the adjacent property owners, Herbert and Jacqueline Birckner, and is separated by a split rail fence. The area is part of a previously platted, but never constructed street, and is depicted on the Point Blackistone subdivision plat recorded at JMM 5, folio 97, the same being part of "Maryland Avenue," dedicated to public use by plat dated August 22, 1891 and recorded at JFF 12, folio 584. Since the old right-of-way serves no useful public purpose, the County is proposing to close this part of Maryland Avenue and quit claim and convey any and all interest it may have in the property to the State of Maryland, which owns the St. Clement's Island-Potomac River

Museum property. The Birckners are proposing to do the same. This action will allow additional setback acreage for the future relocation of the Little Red Schoolhouse and/or other Museum projects. In the near future, the quit claim deed and the boundary line adjustment plat will be brought forward for the Board of County Commissioners' approval and signature.

Mr. Jerry McDonough, MD DNR, stated that after the signed documents are received by his office, they will be forwarded to the State Department of General Services for review and then on to the Board of Public Works for approval. The process is expected to take several weeks.

Commissioner Shelby Guazzo thanked the Birckners for their cooperation and patience with the process.

Commissioner Julie Randall asked if anyone had additional input or comments; since there were none, the Public Hearing was closed with the public record remaining open for ten days for written comment.

(Peggy Childs served as recorder for this portion of the minutes.)

**PUBLIC HEARING - GROWTH ALLOCATION
ISUB #98-2844 - EAGAN SUBDIVISION (Lots 1 & 2)
REX AND FRANCES EAGAN**

Present: Jon Grimm, Director, Planning and Zoning
Sue Veith, Environmental Planner
Theresa Dent, Environmental Planner
Peggy Childs, Recording Secretary
John B. Norris, III, Assistant County Attorney John B. Norris

Requesting Critical Area Growth Allocation for Lots 1 & 2 in the amount of 6.3 acres. The property contains 6.3 acres, is zoned RPD (RCA Overlay), and is located on the west side of River Springs Road, approximately ½ mile south of MD Route 242; Tax Map 46, Block 10, Parcel 230.

Present: Jerry Nokleby, of Nokleby Surveying, Inc., Agent

#S-1 10/12/00 Staff Report, including Critical Area Commission letter dated 10/12/00
#A-1 Certified Receipts of notification to contiguous property owners

Mr. Grimm advised that the public hearing has been advertised as required by law, that the property was posted by staff, and presented the Applicant's Certified Receipts. The Planning Commission conducted a public hearing on May 22, 2000 and has recommended approval subject to the three conditions listed in the Staff Report, including the submission of an environmental report. This report was received on August 31, 2000. It has been reviewed by staff and the Critical Area Commission, and approved.

Mr. Nokleby provided site information, stating there are two existing structures on the property, both of which are dilapidated and will be removed prior to construction of the two dwellings. He said limited clearing is proposed in order to preserve the trees and the existing driveway on the property will be used for both dwellings. A gravesite exists on the northeast corner of the property and a cemetery easement will be provided. A 10 foot easement for the future widening of River Springs road will also be provided. The only two percs approved on the site are located on the south central portion of the property. For this reason, Lot 2 has been configured to connect to the septic disposal area through a narrow easement of land. The Health Department has approved the sewage easements and the site plans for both dwellings. All other TEC concerns have been addressed and preliminary approval has been granted by all the agencies. In addition, Mr. Nokleby presented a map outlining the area of disturbance of this proposed subdivision.

The property to the south is part of a farm and the land has been cleared up to and including part of the Eagan property. The property to the north contains an old, 6-

lot subdivision and some small-lot subdivisions exist across the road. The property is flat adjacent to River Springs Road but slopes gently (10%) to the water and will be easily stabilized during construction. A Sediment & Erosion Control Plan has been prepared and submitted to the Soil Conservation Service. An buffer expanded from 100 feet to 200 feet will be provided. The buffer, the building restrictions and the dwellings will consume the limited development area.

Ms. Guazzo asked that a 30 foot buffer be provided between this property and the historic farm to the south, which is being farmed right up to the property line. The buffer should be undisturbed except for the sewage disposal area. Her other request was that stormwater management be done for both lots as one package, because of the property's proximity to St. Catherine's Bay and the fact that it is being intensely developed. Mr. Nokleby replied he has no problem with either of those requests.

Commissioner Anderson questioned the statement in the Staff Report that 750 acres of growth allocation will be awarded in the Development Districts as part of the ULDC, leaving approximately 800 acres available. Mr. Grimm replied that the Critical Areas in the Leonardtown and Lexington Park Development Districts, primarily, would be rezoned to LDA to meet Smart Growth and Priority Funding statutes. There would not be a separate parcel by parcel review and action by the Commissioners if that policy is implemented. Mr. Anderson replied, in that case, we have to make sure our Critical Area Ordinance is exactly what it should be.

Commissioner Anderson asked why only a 100 foot buffer is being provided for Lot 2? Mr. Nokleby replied that by the time you apply the 50-foot side setbacks, the 75-foot building restriction line from the rear, and the area for the sewage easement, you are left with only a certain size lot on which to put the house. Mr. Anderson said it would have been his preference to adhere to the 300-foot buffer and to reconfigure the lot and move it back farther from the water.

Commissioner Anderson asked why the project scored a 0 out of a possible 4 points for stormwater management? Mr. Nokleby replied they didn't submit stormwater management, but said they would address it in their building permit package. Mr. Anderson replied he wants to know what stormwater controls will be up front and that there will be no negative impacts; in fact, he said growth allocation should enhance a property.

Commissioner Anderson asked about comment 6 of the CAC letter regarding the 10% rule? Ms. Veith replied the 10% Rule Guidance applies to property in the IDA and must improve stormwater quality by 10% over existing conditions. Staff and the Planning Commission have recommended that the 10% rule be applied to this site as well, and that the 10% Rule Guidance document be used to determine which BMP is appropriate for this site and then implement it. She said, in the Critical Area, a development can be exempted from water *quantity* controls, but *not* from water *quality* controls. Mr. Anderson said he would like to know which BMP will be used before the growth allocation is approved and asked if the Commissioners can require that. Ms. Veith said whatever conditions the Commissioners want to place on the project is at their discretion.

Commissioner Randall asked about the other comments in the Critical Area letter. Ms. Veith responded to each comment, stating now they have all been addressed. Regarding comment 5, Ms. Veith said when the project was scored it was not noted that this site is adjacent to LDA and the scoresheet should have been adjusted upwards by another 20 points. She responded to Ms. Guazzo that, because these are two new lots, they will not be eligible for a variance to expand what is allowed by right, because that only applies to grandfathered parcels.

The Chair opened the hearing to public comment.

Patrick Eagan asked for a favorable decision because Lot 2 is for a family member, adding that his family has always added to any community where they lived, and this will be no exception.

Ken Schisler, attorney for the Blackistone-Hughes family, stated they have filed an appeal with the Board of Appeals on this application, based on the fact that the environmental report was not provided until August 31, 2000, which deprived adjacent landowners and others of the opportunity to consider it. He said as he understands growth allocation provisions, the first objective is that the small subdivision category should be a design competition, and the second objective is to protect property rights. The failure of the applicant to submit the environmental report at the initial application violates both of those objectives and did not allow the TEC, staff and the Commission to make useful comments on the design layout of this subdivision.

Mr. Schisler said the 300 foot buffer is not only required by the Zoning Ordinance but by the Comprehensive Plan and COMAR 27.01.02.07.b.6. He said there is no "wobble-room" in the Comprehensive Plan and COMAR and applicant should at least be required to maximize the amount of buffer provided. It appears to him that, with very little change, you could increase the amount of buffer on Lot 2 to the residence without violating any side yard or rear yard setbacks. With a change in configuration, he may be able to meet the 300-foot buffer requirement for the entire subdivision.

Mr. Schisler said the letter from Mike Slattlery, Director of Heritage & Wildlife, which is included in the environmental report points out that this area of waterfront is an important waterfowl staging area. The concern is that this much development this close to the water will impact the waterfowl staging area. He said we are losing these areas and the Canada Goose population has suffered because of it. The Critical Area law was designed to reverse some of these trends, and this development does not do that.

Finally, Ms. Schisler said the septic disposal area 12 feet from River Springs Farm is upslope from a dwelling on the farm property. The placement of the disposal area will disrupt the tree line that now exists and which creates a buffer between this property and the farm. He asked the Commissioners to reject the application or to refer it back to the Planning Commission for review of the environmental report. This would place the application in the 2001 competition and allow it to compete for approval with other applications.

Commissioner Randall asked if Mr. Schisler had stated his concerns in the letter to the Planning Commission included in the Staff Report? Mr. Schisler said some of them are in the letter, but the waterfowl staging concern was not included because he had not seen by environmental report when he wrote the letter during the open comment period. His other concern which is not in the letter is the requirement for a 300 foot buffer under the Ordinance, the Comprehensive Plan and COMAR.

Dr. Gordon Blackistone Hughes said he speaks for himself and his brother Gerard. Dr. Hughes said River Springs Farm has been maintained by his family for over 400 years. Dr. Hughes said their ancestors were born in the main house, and their parents taught them to love the county and to respect and maintain the natural harmony has with the natural resources. Dr. Hughes objected to the two structures proposed, asking why not just put up one house with a swimming pool and garage and all the amenities, and a wing for the daughter? He noted it is almost impossible to configure two 4,000 sq. ft. structures and a swimming pool and two septic drainage fields on the lot, and the second drainage field will tear down the trees within 12 feet of their property line. Dr. Hughes said they believe the second dwelling violates the spirit of the Critical Area law if not the letter.

Clare Whitbeck, of Leonardtown, said she had three ideas to offer as part of the process for approval:

- (1) Specify the amount of the "minimum clearing."
- (2) Put an easement on the trees so they don't disappear later, when a new property owner comes.
- (3) Ask applicant to plant trees elsewhere in the watershed else to replace the trees cleared.

Ms. Whitbeck said this is a perfect application for the "high nitrogen" septic removal system that no one likes – this is exactly the kind of soil where it would do some good and the one she saw cost only \$1,000 more than a regular system. It is not difficult to maintain either - you only have to wash two filters, and she thinks they will be happier with the high nitrogen system, because of the way it works in areas where the water table is close to the surface.

Commissioner Raley pointed out the septic system will come within 12 feet of the boundary line, whereas the Health Department requirement is only 10 feet. Regarding the 300 foot buffer, Ms. Veith responded that new IDA and LDA in the RCA should be located at least 300 feet from the water, but it is not a "shall be," it is a "should be." COMAR is also a "should." Under the single-lot subdivision category, it says that applications should not be required to meet all of the guidelines because of the small lots, but efforts to meet all the guidelines should be made where possible. Ms. Veith also pointed out that any trees that are cleared will be required to be mitigated, either on this lot as understory enhancement, planted in existing open areas, or planted off-site within the same watershed.

Mr. Nokleby responded to Ms. Guazzo that septic systems are installed one at a time. The 19,900 square foot limit of disturbance for Lot 1 includes the home and the installation of the first septic system. It may be 5 years or 50 years before the system ever fails and it may not ever have to be done. By that time, the trees will probably be grown up and you'll never see it anyway. Regarding the scoring of the project, Mr. Nokleby said it usually has a lot of built in criteria for large developments, so a low score for a single lot does not mean they didn't do a good job designing it. He said he believes he is the only one who submitted a growth allocation request this year, because the process is so lengthy, people just don't like to get into it. He said he did submit a one-page report and staff asked him to expand it. Mr. Anderson said he agreed that a one-page report is not adequate. He asked what the fact that it was not submitted in a timely manner has on the timing of the request and also whether this is two new lots or a lot of record and one new lot? Mr. Grimm responded this is one new lot with the remnant of the parent parcel, which will be labeled as a separate lot. He stated he believes a permit was issued before the growth allocation was filed. He said the permit does not require a 300 foot buffer and the work may or may not already be started – he doesn't personally know.

Mr. Grimm said a lot is being made of the environmental permit, but staff raised the issue in the September 1999 review comments which are in the 10/12 Staff Report. For the record the letter states that the information provided is adequate, with the exception of a response from Heritage & Biodiversity, the applicant may want to consolidate the information into a cohesive report. The letter referenced from Heritage & Biodiversity was received in October 1999 and the failure Mr. Nokleby had was not in not packaging up the report, it was staff's finding that the substance of the submittal was, in fact, sufficient.

Ms. Schuster made one final comment, that approval of this application will create an island of RCA surrounded by LDA, which is frowned upon by the Critical Areas Commission and they have rejected other application which do this.

The hearing was closed at 3:17 p.m. The record will remain open for 10 days for written comment and then scheduled for a decision by the Commissioners.

(Judith Spalding took the remaining portion of the minutes.)

COUNTY ADMINISTRATOR

Present: Alfred A. Lacer, County Administrator

1. Draft Agendas for October 24 and Nov. 2, 2000
2. **St. Mary's Public Schools**
Request for Authority for Supplemental Funding for FY 2001 Operation Budget, Food Service Revolving, and CIP; source of funds – excess revenues (\$852,003) from FY 2000 operating budget

Present: Dr. Patricia Richardson, Superintendent
John Parlett, Jr., President, Board of Education
Other Board Members and Staff
Elaine Kramer, County's Director of Finance

County Administrator Lacer referred to the Public School's letter of October 3 requesting authorization to use excess revenues from the FY 2000 operating budget to supplement the FY 2001 Operations Budget, Food Service Revolving Funds and the Capital Improvement Budget. He stated it was staff's recommendation that the request be held in abeyance until the Banneker-Loveville and Lexington Park Elementary School projects have been rebid.

The specific requests are: Recruitment Specialist; Administrative Intern for GMHS; three BMC paraprofessionals; Social Studies Textbooks; Fixed Charges for requested positions; four vehicles; Point-of-Sale Hardware/Software; and \$420,303 reserved for capital projects.

Ms. Kramer recommended that in order for the Commissioners to preserve their flexibility in responding to the school system's CIP overruns (which is currently estimated by SMCPS to be \$2,412,452) for the two school projects, that the request be deferred until the specific costs are known. The projects will be rebid in the January/February timeframe, and until the Commissioners know the total requirements, staff could then assess the County's ability to meet those needs and identify funding sources to do that.

Areas of discussion included the source of the excess revenues (unused salaries and additional unanticipated funds from the Federal Government); importance of the Recruitment Specialist to assist in attracting teachers to the area; expected additional expenses in FY 2001, including fuel and maintenance contracts; and that the BOE look within its current budget to fund these requests.

After discussion Commissioner Guazzo moved, seconded by Commissioner Anderson, that the Commissioners approve the increase of 1.0 FTE in the Administration Category for a Teacher Recruitment Specialist. And to increase the Administration Category by \$39,460 and the Fixed Charges Category by \$ 6, 540 to cover the costs for the Recruitment Specialist,

to deny the remaining items at this time, to reserve the rest of the carryover funds from the previous year's budget at this time for future school system needs; and once the Banneker Loveville and Lexington Park Elementary School projects are rebid, the Commissioners will reconsider any requests by the BOE. Motion carried.

Commissioner Raley moved, seconded by Commissioner Anderson, to authorize Commissioner Randall to sign the Budget Amendment when prepared. Motion carried.

3. Grant Documents

a. **Department of Public Works and Transportation**

Mass Transportation Administration Grant Assurances (part of FY 2002 Grant Application for Federal/State Transportation Funds)

Present: George Jarboe, Transportation Supervisor

Commissioner Anderson moved, seconded by Commissioner Raley, to approve and authorize Commissioner Randall to sign the Assurances as presented and to approve and sign the Resolution Authorizing the Filing of an Application with the Mass Transit Administration of the Maryland Department of Transportation for a Section 5311 Grant under the Federal Transit Act. Motion carried.

b. **Sheriff's Department**

Local Law Enforcement Block Grant Agreement

(Federal - \$59,416; County - \$6,602)

Present: Sheriff Richard Voorhaar
Lottie Bell, Fiscal Analyst, Sheriff's Department

Commissioner Guazzo moved, seconded by Commissioner Mattingly, to approve and authorize Commissioner Randall to sign the Block Grant Agreement. Motion carried.

c. **Recreation and Parks**

Program Open Space Grant Applications
Acquisition Applications: Great Mills Road Property and Chaptico Park
Development Applications: Chaptico Park and Laurel Grove Park

Present: Phil Rollins, Director, Recreation and Parks

Commissioner Guazzo moved, seconded by Commissioner Raley, to approve and authorize Commissioner Randall to sign the Program Open Space Grant Applications, pending review and approval by the Director of Finance and the Legal Department. Motion carried.

4. **Lamar Advertising Lease – Navy Museum**
(to give direction to staff regarding lease renewal)

Present: Janet Parks, Property Manager

Mr. Lacer requested authorization for staff to proceed with the termination of the Lamar advertising lease for eventual removal of the billboard. The need for removal of the sign is in conjunction with the clearing of the site for the relocation of the Navy Air Test and Evaluation Museum. The lease expires at the end of the year and a direction is needed regarding its renewal.

During discussion Commissioner Mattingly raised the question of whether Lamar had a commitment for advertising on the billboard. Ms. Parks responded that there is a 60-day window within which to work.

After discussion Commissioner Raley moved, seconded by Commissioner Guazzo, to give staff general direction to inform Lamar Outdoor Advertising that the County will not be renewing the lease on the former McDaniel property and for staff to act as quickly as possible to have the sign removed. Motion carried.

7. **Legal Department**

- a. Draft Resolutions – Lexington Park Senior Apartments
- (1) Payment in Lieu of Municipal Real Property Taxes
 - (2) Endorsement of Financing by the Dept. of Housing and Community Development

Present: John B. Norris, III, Assistant County Attorney

Commissioner Guazzo moved, seconded by Commissioner Raley to approve and sign Resolution No. 2000-35 – Lexington Park Senior Apartments - Payment in Lieu of Municipal Real Property Taxes. Motion carried.

Commissioner Guazzo moved, seconded by Commissioner Anderson, to approve and sign Resolution No. 2000-36 – Lexington Park Senior Apartments – Endorsement of Financing by the Department of Housing and Community Development. Motion carried.

- b. Resolution - Rescinding St. Mary's County Community College Advisory Board by-laws

Commissioner Guazzo moved, seconded by Commissioner Anderson, to approve and sign Resolution No. 2000-37 – Rescinding Resolution No. 78-054 Regarding St. Mary's County Community College Advisory Board by-laws. Motion carried.

The Commissioners requested that staff prepare letters of appreciation to the Community College Advisory Board members expressing appreciation for their service on the Board.

5. **Department of Permits and Inspection**

Resolution Adopting Building Code (follow up to 6/6/00 public hearing)

Commissioner Guazzo moved, seconded by Commissioner Mattingly, to approve and sign Resolution No. 2000-38, Amending the St. Mary's County Building Code, Article II, Sections 203-11 and 203-12 of the Code of Public Local Laws of St. Mary's County to include Changes made by BOCA 1996 and CABO 1995 and to Provide for the Severability of Invalid Provisions and to Address the Controlling Provisions in the Event of Conflict, to be effective January 1, 2001. Motion carried.

VISIT BY MONTGOMERY COUNTY EXECUTIVE

Present: Douglas Duncan, County Executive

Mr. Duncan, during his visit to St. Mary's County, came to the Commissioners' meeting to discuss areas of mutual interest, including teacher recruitment, school construction costs, growth and technology requirements, TDR program and Agricultural Overlays, the decline of the number of towns looking to be incorporated, community revitalization and redevelopment, and tools for proper development.

(Kate Mauck took the minutes of the following public hearing.)

PUBLIC HEARING

AIRPORT PROTECTION ZONE

Present: Jon Grimm, Director, Planning and Zoning
George Erichsen, Director, Public Works
Patty Stiegman, Airport Business Manager

The Board of County Commissioners conducted a public hearing on the Airport Environs Zoning Amendment. The intent of the amendment is as follows:

- To bring forward the draft provisions of the ULDC pertaining the county airport into the current ordinance; and
- To implement airspace protections for the already planned expansion of the runway to 5350 feet; and
- To provide graphic depiction of the airspace protection elevation rather than adoption solely be reference; and
- To implement the April 1999 Comprehensive Plan and protection of options for the future use of the airport; and
- To provide for review of development applications in all approach surfaces by the Board of Appeals as conditional use applications.

Mr. Grimm provided text and map illustrations for review. He also presented recommendations proposed by the county's consultant. The Planning Commission had previously conducted a public hearing on October 10, 2000 on the proposed amendment and the record for that hearing will remain open for written public comment until October 20th. The Planning Commission had several questions, issues and concerns that they wished to be conveyed to the Board of County Commissioners, as follows:

- General agreement with the need to protect for future options at the airport.
- Large acreage of areas proposed for conditional use review by Board of Appeals.
- Could an alternative list of uses be established as in AICUZ?
- What specific standards would the Board of Appeals use in judging a CUAP near the airport?

Commissioner Randall asked that staff make recommendations to the Commissioners regarding the last two bulleted questions.

Mr. Grimm stated that written public comment had been received from Mr. James Shultz Collins, which would be included as part of the public record.

Mr. Erichsen outlined recommendations made by the consultant to the county on a "clear zone" to provide for future protection from construction and/or other future projects having to do with the airport. He outlined the "clear zone" and a rectangular-shaped area that would be protected when applications are considered in those areas in the future. Mr. Erichsen further outlined for the public that today's public hearing was meant to provide for protection of the airspace for the current master plan only, and was not intended to cover any discussion on possible airport expansion.

Commissioner Guazzo asked Mr. Erichsen to look into state and/or federal requirements as well as to check with other airports to see if the 200 foot construction height limitations could be lowered by this county to 100 or perhaps 150 feet in order to have more stringent guidelines in St. Mary's County.

Commissioner President Randall expressed concern about outside regulations changing, and then the language in the St. Mary's County's document would have to be changed in order to reflect current state and/or federal regulations and rules. Mr. Erichsen stated that he would include a generic statement in the document regarding this issue that would satisfy any concerns in this area. Commissioner Randall also addressed obstruction issues, asking for safeguards to be put into place to ensure that accurate surveys on height and distance are not problematic in the future. Mr. Erichsen addressed the issues of parking lot lights for the Southern Maryland Higher Education Center and a corner of one of PRB's buildings. He stated that a safeguard would indeed be added to the document.

Commissioner President Randall opened the floor for public testimony. The following individuals spoke:

Steve Bildman – Protection for the needs of the airport is long overdue. Expressed concerns that the Ordinance does not show how property owners will be compensated for land purchases or easements. This option is not at all advantageous for property owners. If the land is purchased by the county, the FAA will participate in the funding at 90% of the cost.

George Thornton - Asked questions about the 65 decibel noise pollution and what elevation the readings are taken at. Mr. Grimm stated that they are taken at ground level. Mr. Thornton has windows that rattle when planes fly overhead, and some planes are just clearing his trees at 150 to 200 feet. Contacted the FAA in Alexandria and was told height elevations over private dwellings should be 500 feet at the minimum.

Larry Schadegg, PRB Associates – Against the Ordinance. Space impacts need to be further analyzed. Mr. Shaddock outlined past problems since 1983. He has added 400 jobs to the county and will have to move elsewhere if he cannot expand. Relocating would result in the loss of millions of dollars to this county.

Robert Swann – Registered an official protest to the Ordinance. Questions about density in the flight path and the purchase of the properties involved by the county. Asked for the county to stop taking over land, because people cannot build on their own property.

Pam Corbin – Asked questions about the clear zone and expressed concern that it may already be too late to protect the property. Asked Commissioners to leave the airport as it is and configure taxiways to meet the runways. Perhaps a regional airport should be considered in the future at another site in the county.

Glenda Joyce – Her home is the last one to see airplanes before they go over the highway, in addition to the Thorntons. Expressed concerns about the noise level, and asked for a copy of the current Airport Master Plan to take with her.

Commissioner President Randall closed the public hearing for public comment on the Airport Environs Zoning Amendment. She announced that the record would remain open for 10 days for any and all written public comment. After the 10-day period, the matter would be placed on an agenda for review and decision by the Board of County Commissioners.

The public hearing closed at 6:16 p.m.

COUNTY COMMISSIONERS' TIME

There were no items for County Commissioners Time.

EXECUTIVE SESSION

Commissioner Mattingly moved, seconded by Commissioner Raley, to meet in Executive Session to discuss a matter of Personnel, as provided for in Article 24, 4-210(a)1. Motion carried.

Personnel

Present: Commissioner President Julie B. Randall
Commissioner Joseph F. Anderson
Commissioner Shelby P. Guazzo
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley
Alfred A. Lacer

Authority: Article 24, Section 4-210(a)1

Time Held: 6:20 p.m. - 7:45 p.m.

Action Taken: The Commissioners discussed the selection of members to a committee.

ADJOURNMENT

The meeting adjourned at

**Minutes Approved by the
Board of County Commissioners on 10/24/00**


Judith A. Spalding, Recorder