

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
Governmental Center
Tuesday, August 21, 2001**

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, Administrative Assistant to BOCC (Recorder)
Kate Mauck, Administrative Assistant (Recorder)

(Commissioner Randall 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 presented. Motion carried.

APPROVAL OF CHECK REGISTER

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

APPROVAL OF MINUTES

Commissioner Mattingly moved, seconded by Commissioner Anderson, to approve the minutes of the Commissioners' Comprehensive Plan/ULDC public hearings of Tuesday, July 17 as presented. Motion carried.

Commissioner Mattingly moved, seconded by Commissioner Anderson, to approve the minutes of the Commissioners' the ULDC public hearing of July 18, 200, as presented. Motion carried.

Commissioner Anderson moved, seconded by Commissioner Raley, to approve the minutes of the Commissioners' Work Sessions of Thursday, August 2, as presented. Motion carried.

Commissioner Mattingly moved, seconded by Commissioner Raley, to approve the minutes of the Commissioners' meeting of Tuesday, August 7, 2001, as corrected. Motion carried.

Commissioner Mattingly moved, seconded by Commissioner Raley, to approve the minutes of the Commissioners' Work Sessions of Thursday, August 9, as corrected. Motion carried.

COUNTY ADMINISTRATOR

Present: Alfred A. Lacer, County Administrator

1. Draft Agendas for August 28/30 and September 4/6 2001

(In that a list of all Commissioners' meetings for 2001, which indicated no meeting on September 4, was distributed to all departments, the Commissioners requested the secretary to send out notices to all departments that there will be a meeting on September 4, specifically for a Zoning Ordinance Work Session.)

2. Sheriff's Department
Local Law Enforcement Block Grant Agreement for FY 2001

Present: Lottie Bell, Fiscal Specialist
Lt. Tim Cameron, Sheriff's Department

(In order to give Ms. Bell and Sgt. Cameron an opportunity to review a memorandum from the County Attorney, the Commissioners deferred action on the Agreement until later in the meeting.)

Later in the meeting, the County Administrator advised that Ms. Bell and Sgt. Cameron discussed the memorandum with County Attorney Murphy, and that the Agreement was ready for the Commissioners' action.

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

3. Office of Community Services Grant documents

Present: Joe Donick, Director, Prevention Coordinator
Jacqueline Beckman, CTSP Coordinator

a. FY 2001 Combating Underage Drinking Grant Acceptance Letter

Commissioner Mattingly moved, seconded by Commissioner Anderson, to approve and authorize Commissioner Randall to sign the Grant Acceptance Letter for FY 2001. Motion carried.

b. FY 2002 Combating Underage Drinking Grant

Commissioner Mattingly moved, seconded by Commissioner Anderson, to approve and authorize Commissioner Randall to sign the Grant Application for FY 2002. Motion carried.

Commissioner Raley requested a listing of the commercial establishments that were visited as part of the "Cops in Shops" aspect of the grant in FY 01.

c. FY 2002 Highway Safety Project Agreement

Commissioner Mattingly moved, seconded by Commissioner Raley, to approve and authorize Commissioner Randall to sign the FY 2002 Project Agreement. Motion carried.

Commissioner Raley requested that the Office of Community Services return to the Board at a later date to brief them on the recently completed summer camps.

(Commissioner Julie Randall entered the meeting – 10:35 a.m.)

4. Facilities Management

Present: Richard Rohrbaugh, Director
Janet Parks, Property Manager

Deed conveying strip of land along Route 235 for widening project by SHA from Pegg Rd. to Rt. 246.

Commissioner Anderson moved, seconded by Commissioner Guazzo, to approve and authorize Commissioner Randall to sign the Deed. Motion carried.

5. Department of Recreation and Parks
Indemnification Agreement and Deed
(for conveyance of approximately ten acres of property owned by MetComm
of former Wicomico Shores Wastewater Treatment Plant to the County)

Present: Phil Rollins, Director

Commissioner Mattingly moved, seconded by Commissioner Anderson, to approve and authorize Commissioner Randall to sign the Indemnification Agreement and Deed. Motion carried.

6. Department of Economic and Community Development
Maryland Agriculture Land Preservation Foundation Easement Applications
Letter to MALPF ranking 28 FY 02 easement applications

Present: Donna Sasscer, Agricultural Specialist

(Ms. Sasscer noted that there are 28 projects being submitted; however, those that have an asterisk are those properties that qualify for *green print* and could be taken out of the ranking and funded through *green print* funding.)

After discussion Commissioner Anderson moved, seconded by Commissioner Guazzo, to approve and authorize Commissioner Randall to sign letter as presented. Motion carried.

COUNTY COMMISSIONERS' TIME

Maryland Association of Counties Summer Conference

Commissioner Guazzo reported that last week's MACo Conference was a good opportunity to meet with peers and exchange ideas. She stated that she particularly liked the seminar on redevelopment areas and the example given was the revitalization of Silver Spring and other areas where the arts and entertainment sections form the nucleus for revitalization efforts.

Commissioner Randall echoed Commissioner Guazzo's statement that the redevelopment seminar was one of the best during the conference stating that it was good to hear from other counties. She stated that it was obvious that the other counties are facing some of the same issues as St. Mary's. Commissioner Randall thanked county staff, school system staff and others in the community who spoke at some of the meetings, and that this was a good opportunity for St. Mary's County to share its successes with other counties. She pointed out that St. Mary's received special recognition from the Governor on the County's HotSpots initiative at the Lexington Park wedge.

Ridge Fire Department Carnival

Commissioner Raley stated that the firemen at Ridge had put on a great carnival; however, because of bad weather, it will run another weekend this coming weekend.

National Night Out – Lexington Manor

Commissioner Raley referred to the August 7th National Night Out and complimented the Sheriff's Office and the Office of Community Services for putting the event together. He stated that he wanted to personally thank Clare Whitbeck for going in the fire hose spray at Lexington Manor saving him from having to do it himself.

Summer Camps

Commissioner Raley pointed out that the Office of Community Services' Summer Camps have now been completed and suggested that the Commissioners get a report on the camps at a future meeting.

Commissioner Anderson indicated that he had attended the closing of the summer camps and expressed appreciation to county staff for doing such a good job with the camps.

Commission on Education Finance, Equity and Excellence

Commissioner Anderson announced that the referenced Commission will be holding public hearings in four regions of the State on September 10 at 7 p.m. to solicit public input prior to the issuance of its first draft report. The hearing for the County's region will be held at Surrattsville High School in Clinton.

Annual Golf Tournament

Commissioner Mattingly reported that he attended the Annual Golf Tournament, which was held to raise funds to provide assistance to fire/police/rescue persons killed in the line of duty.

Birthday Greetings

Commissioner Randall extended Happy Birthday greetings to her mother.

CHILDREN'S TREE – LEONARDTOWN LIBRARY

The Commissioners departed to the Leonardtown Library to view the Children's Tree constructed by BAE Systems' employees, who have adopted the Library as a community project.

SOIL CONSERVATION DISTRICT

Present: Al Steuart, SCD Supervisor
Bruce Young, SCD
Members of the SCD

Presentation of Commendations

Also Present: Cdr. Brian Jagoe, NAS
Tommy Wright, “

The Commissioners presented Commendations to the Soil Conservation District and to the NAS representatives for their cooperative working relationship in providing the SCD ways to generate revenue and operating funds and for the completion of 2600 feet combination of revetment, offshore breakwater and high marsh creation along an eroding section of the Patuxent River.

Sedimentation and Erosion Control Legislation

Mr. Young distributed a copy of legislation passed by the Maryland General Assembly in March, to be effective October 1, 2001, relative to Sediment and Erosion Control Inspection Fees. He pointed out that St. Mary's County is considered a non-delegated County from the standpoint of erosion and sediment control. MDE is the enforcement authority for any issues or problems in the County, and SCD is the review and approval for erosion and sediment control plans. Once a plan is approved, MDE inspects the site, and if there are violations, MDE requires the project to come into compliance.

Mr. Young indicated that MDE has a serious staff problem and has difficulty in getting to all of the urban sedimentation and erosion control inspections; therefore MDE proposed legislation which would allow non-delegated counties, if they choose to do so, to do inspections on erosion and sediment control projects. It is not a requirement or a mandate. Mr. Young advise the Commissioners that St. Mary's County's SCD has chosen not to participate at this time—because of lack of funding to perform this work; and because it would ruin the image of SCD; however, it could be something SCD could look into at a later time.

Kate Mauck recorded the following minutes:

ZONING ORDINANCE DISCUSSION

Present: Jon Grimm, Director, Planning and Zoning

Article 3 – Zoning Districts and Density and Chapter 26 - TDRs

Mr. Grimm provided the Board of County Commissioners with background documents and information regarding zoning districts and density. The following information was discussed and/or determined:

- 30.2 – Mr. Grimm provided an update on the RCL district portion of the document and possible Planning Commission recommendations. *It was determined that if the recommendation comes from the Planning Commission, then a 9th item should be added under RCL (conforming/nonconforming status;)*
- 30.3 – Establishment of Districts – discussed redundant appearance of paragraphs – Mr. Grimm explained the need for both paragraphs;
- 30-1 line 27-31 – *may need to define several terms in the definitions section of the document if their meaning is unclear;*
- 30-4, line 15 – *broaden statement to “technology and other industry”;*
- 30-2, line 21 & 22 – explanation of low density term was discussed – it is a relative term that occurs later in Schedule 31;
- 31-1, line 39 & 40 – *delete this statement, as it was deleted earlier in another location;*
- 31-15, line 43 & 44 – *strike this statement;*
- 31 – *add statement in village center which indicates that it is not intended for urban use;*
- Discussed urban areas and village centers at length;
- 31.2, line 16 – *strike the word “and industrial”;*
- 31.2, line 28 - *Office Business Parks – delete the last two sentences (38,39,40);*
- Discussed detailed definition of “accessory” to a permitted use;
- 31-1 – Under RPD, Line 23 – remember to cover farmstead definitions/subdivision when Commissioners get to that chapter;
- 31-2 – *change the name “service development” in order to differentiate;*
- 31.1, line 24 – *strike the term “cluster”;*
- Further discussed clustering in detail;
- 31-12, lines 29 & 30 – CMS – discussed strip development;
- It was pointed out that the issue of simplification of this document should be kept in mind at all times;
- 32-1, lines 17 – 20 – *delete;*
- 32.1, paragraph c, lines 30-32 – *delete statement entirely;*
- 32.1, paragraph a, lines 22-26 – *change from “to qualify for a modification” to “to qualify for a residential density increase, at least 20 % of the units in the proposed development shall be”;*
- Discussed Montgomery County regulations and 50% of median income issue;
- Discussed problems with affordable housing and inclusionary zoning;
- 32.1 – *editing error – should have a base density FAR (32.4 – first three columns have no way to increase their FAR or density);*
- *RPD, RSC, RCL – no intention to allow an increase in accessory type dwellings – should be blank for those three zones;*
- *Base FAR – Mr. Grimm will check on the numbers;*
- *Schedule 32.1 will be reworked and presented to Commissioners again;*
- No increase allowed in the RPD – this will be a policy decision for the Commissioners to make;
- Discussed limitations on FARs in the downtown district area and determined to put “no limit imposed”;
- *FRH frontage – set no limit;*
- *VMX district – should be 20 %;*

- *Footnote #9 in October version should have been kept in document regarding family members;*
- BAX and maximum footprint – scheduled to address at a later date (8/28);
- *Minor collector/major collector and alterior roads – footnote 10 should be footnote # 8;*
- Discussed the depth of frontage setbacks on major collector and alterior road – Mr. Grimm suggested that specific setbacks might be designated for specific roads in the County (Willows, Hermanville, St. Andrews, etc.) – have a standard set just for these roads. *Mr. Grimm and Mr. Erichsen were tasked with developing a schedule for additional setbacks as discussed;*
- Discussed DMX minor collector 5 foot setbacks and reasons for setback minimum and maximums – *Ms. Finnacom to provide reasons to Board of County Commissioners for the numbers that are presented and how they fit into the Lexington Park Master Plan;*
- Discussed width, depth and frontage for residential, and the transition from single family to multi-dwelling units;
- Chapter 63 – 63.45 need to discuss prescribed standards when discussions occur;
- Discussed frontage lot dimensions and industrial setbacks of 35 feet; and
- *Strike footnote #1*

Commissioner President Randall distributed up-to-date schedules for the work sessions regarding the Zoning Ordinance. *The date at the top of schedule should be changed to August 21, 2001 and Big Box should be added to the August 28th work session topics.*

Regarding Table 32-1a – Density and Rural Preservation Districts:

**Mr. Grimm outlined recommendations regarding Table 32-1a.
Commissioner President Randall outlined key points to her proposal regarding density as follows:**

- Density in the RPD would be changed to one dwelling unit per six acres for all parcels greater than six acres;
- For those parcels currently less than six acres, each parcel would retain its development rights of one DU per parcel. Parcels less than three acres would require the purchase of one TDR in order to building a dwelling unit;
- For parcels greater than six acres, the purchase of one TDR per home to be built would be required unless the dwelling units are clustered on 50% or less of the parcel;
- TDRs are valued at one TDR per three acres. TDRs may be sold within the RPD or to the growth districts;
- The process and details of the purchasing of TDRs was outlined;
- The importance of reducing density by 50% as outlined in the Comprehensive Plan was a key point to Commissioner President Randall's proposal; and
- Details and examples of Commissioner President Randall's proposal was presented in written form and discussed at length.

Commissioner Mattingly outlined his concerns and a proposal regarding density:

- The rural part of the County should not carry the entire burden for rural preservation;
- Voiced concerns regarding the amount of developable land in the County and the way build out of three acres is calculated. Commissioner Mattingly stated that he was not satisfied that the numbers are accurate;
- In addition, the proposal submitted should be simpler than the one outlined by Commissioner President Randall;
- Commissioner Mattingly proposed a one in five zoning density with the allowance of increasing that density to one in three by buying either TDRs or by using a purchase of development rights program which would be subject to legislation;
- Farmsteads would be allowable;

- Further discussion concerning legislation necessary under this proposal took place. Mr. Norris provided input to the Commissioners regarding this issue; and
- The 50% reduction figure that was outlined in the Comprehensive Plan was discussed at length.

Commissioner Anderson outlined the reasons for the importance of adhering to and supporting the goals of the Comprehensive Plan. He outlined a proposal as follows:

- Space that is to be preserved should be usable open space;
- Plan must be simple;
- Stated that Mr. Grimm's scenario #1 most closely allows the County to reach the goals established. This scenario allows a build out of one development unit per 15 acres with a sliding scale;
- Proposed sliding scale of less than 6 acres – one DU allowed;
- 6 to 15 acres – two DUs allowed;
- 15 to 45 – three DUs allowed;
- 45 and above, go to one house per fifteen acres; and
- Provisions could be worked into this scenario, which would allow for additional density beyond the base required if TDRs were purchased or possibly a fee in lieu of TDRs, which could go toward helping to fund the TDR program.

The Board of County Commissioners discussed their concerns with the fairness of TDRs and the implementation of the goals of the Comprehensive Plan. They discussed in detail the best way to implement the Comprehensive Plans. *Commissioners directed that staff provide an analysis of all the proposals presented at today's meeting and outline how they could be used to get the County to the 50% goal.*

Commissioner Anderson added an addendum to his proposal, stating that there should be accommodations made for family members.

Commissioner Guazzo stated that the County should not have undevelopable TDRs. She outlined a variety of properties in the County such as wetlands, steep slopes, etc. that could never be developed.

Commissioner Raley outlined a variety of real-life scenarios based on proposals submitted by the other Commissioners. He stated that he was in favor of the one in six proposal, if that would get the County to its goal of 50%.

Clustering was discussed at length as well as the reasons for reducing sprawl.

Mr. Grimm outlined statements made to him by Mr. Tom Russell regarding the number of lots in the County that are undevelopable.

It was determined that this issue would be further researched and then discussed for a hopeful decision at the work session which will be held on Thursday, August 23rd.

Judith Spalding recorded the remaining meeting minutes:

EXECUTIVE SESSION

Commissioner Guazzo moved, seconded by Commissioner Anderson, to meet in Executive Session to discuss matters of Litigation, as provided for in Article 24, Section 4-210(a)8. Motion carried.

Litigation

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
Patrick Murphy, County Attorney
John B. Norris, III, Deputy County Administrator
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)8

Time Held: 5:40 p.m. – 6:30 p.m.

Action Taken: The Commissioners were briefed regarding a settlement issue
and a issue relative to a task force and gave direction to staff.

ADJOURNMENT

The meeting adjourned at 6:30 p.m.

**Minutes Approved by the
Board of County Commissioners on 8/28/01**

Judith A. Spalding
**Judith A. Spalding, Administrative Assistant
to the Board of County Commissioners**