

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
Governmental Center
January 4, 2000**

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, County Administrator
George Forrest, Deputy County Administrator
Judith A. Spalding, Recorder

CALL TO ORDER

The meeting was called to order at 9:00 a.m.

ADDITIONS/DELETIONS TO AGENDA

Commissioner Guazzo moved, seconded by Commissioner Raley, to accept the agenda as presented. Motion carried.

APPROVAL OF CHECK REGISTER

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

PROCLAMATION

KNIGHTS OF COLUMBUS – CHARITY BALL DRIVE

The Commissioners presented a Proclamation designating January through March as the 40th Annual Charity Ball Drive.

EXECUTIVE SESSION

Commissioner Guazzo moved, seconded by Commissioner Raley, to meet in Executive Session to discuss matters of Personnel, as provided for in Article 24, Section 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
Al Lacer, County Attorney

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

Time Held: 9:25 a.m. – 2:35 p.m.

Action Taken: The Commissioners discussed a number of personnel issues and gave direction to staff.

Follow Up to Executive Session

Commissioner Guazzo moved, seconded by Commissioner Raley, that the Board of County Commissioners of St. Mary's County terminate the employment contract of Mortimer L. Smedley {County Administrator} to be effective at the close of business this date, January 4, 2000. The Commissioners will honor its contractual obligations with Mr. Smedley. Motion carried.

Commissioner Randall read the Information Release announcing the termination of Mr. Smedley's contract, and advising that George Forrest will assume the duties and responsibilities of the County Administrator's position pending the Board's announcement of a replacement.

(Kate Mauck took the minutes from this point.)

**PUBLIC HEARING
ROAD TAXING DISTRICTS (LEVY ORDINANCES)**

Present: Al Lacer, County Attorney

The Commissioners conducted a public hearing for the following Road Improvement Special Taxing Districts: 1) Mallard Creek Levy Ordinance; 2) Rosebank Village Levy Ordinance; and 3) Clover Dale Acres.

Mr. Lacer recommended adoption of the above Special Taxing Districts to the Commissioners. He outlined the procedures that had been followed which brought these items to the point of public hearing.

Commissioners had questions concerning the different interest rates charged and the petitioning of property owners.

The floor was opened for public comment; no comments were offered.

Commissioner Randall announced that the record would be left open for a period of ten (10) days, during which time the Commissioners would accept any written comment on this subject. At the end of the 10-day period, the Commissioners will take action on the Taxing District Ordinances.

COUNTY COMMISSIONERS' TIME

Letter of Response to Ms. Barbara Thompson

Commissioner Guazzo stated that a letter had been received from Barbara Thompson dated December 17, 1999, which to her knowledge had not yet been responded to by staff. Ms. Thompson is the new Southern Maryland Regional Customer Service Manager for Maryland's Department of Housing and Community Development. The letter requested a meeting with the Commissioners, as Ms. Thompson was new to this position. Commissioner Guazzo asked that a reply be sent to Ms. Thompson, setting up a meeting with her as the schedule permits. Commissioner Randall asked that Mr. Forrest check with staff to determine whether a response was in process.

Expression of Appreciation

Commissioner Randall expressed her appreciation to the County Staff, the Sheriff's Department, the Health Department and everyone else that participated in the New Year's Eve preparation for any Y2K glitches. Everything went off without a hitch, and a great deal of thanks was owed to those who contributed to this success.

(Judith Spalding resumed taking minutes from this point.)

**PUBLIC HEARING
AMENDMENT TO ZONING ORDINANCE
(In Conjunction with Callaway Village Interim Study)**

Present: Al Lacer, County Attorney
Jon Grimm, Director, DPZ

The Commissioners conducted a public hearing (which was published December 17 and 24, 1999) on the consideration of a proposed amendment of Article VII, Sections 70.1 through 70.7 of the St. Mary's County Zoning Ordinance which will establish that these provisions apply only to a proposed amendment to the County's zoning map which would reclassify all or part of a specific tract of land. The proposed amendment would also authorize the Director of Planning and zoning to file an application to amend the County Zoning map to reclassify all or part of a specific piece of property.

Mr. Lacer explained that the proposal is for a procedural amendment that would clarify Section 70 of the Zoning Ordinance and will bring the local practice into conformance with state procedures (as ruled in an Attorney General's Opinion in 1979). It would make clear that there is no local requirement that the text change go through the Planning Commission; however, the Commissioners would retain the right to request such input. Rezoning would still be required to go through the Planning Commission.

The public hearing was opened for public comment.

Roger Myerberg (representing Dr. Moon) – Expressed opposition to the amendment indicating that the procedures followed in the past (going through Planning Commission) have been appropriate and stated that the County should continue the practice.

Maxine Nye – Expressed opposition to the proposal stating that a moratorium would hurt people in the area.

William Durkin – Expressed opposition to amendment stating that it will affect the ability of the people who own property to work with their property.

Susan Werring – Expressed opposition stating it would create a snowball effect in the area and that it would be discriminating against a targeted group.

Brian Werring – Expressed opposition stating that a moratorium would slow growth and could "scare the Navy away."

Leonard Kohl – Expressed opposition to Zoning Amendment.

Bubby Knott – Expressed opposition to moratorium.

Richard Hayden – Inquired whether moratorium was going to be set in other areas of the County and expressed concern that the Navy could leave the area.

Alison Taylor – Expressed support for the Amendment stating it was a clarification of a right the Commissioners currently have.

Linda Murdock – Expressed support for the Amendment stating it was an appropriate clarification of an existing procedure.

Rev. D. Moore – Expressed opposition stating he had a problem with the timing, and if it had been done a couple of years ago, he may have supported it.

Steve Pyles – Expressed opposition to the Amendment (expressed concern about the timing—Attorney General opinion of 1979 and that it is now 2000).

Herb Redmond – Advised the Commissioners to be cautious in proceeding with the Amendment; that the public needs to be made fully aware of the effect of the process.

Clare Whitbeck – Expressed support for the Amendment stating it was a clarification.

Bob Miller – Expressed opposition to the Amendment.

Charles Young – Expressed opposition to the Amendment stating Callaway had been designated as a Village; that he did not believe a moratorium was in order.

Hearing no further comments, the public hearing was closed; the record will remain open for ten (10) days for additional comments. A discussion/decision will be scheduled in two weeks.

The public hearing concluded at 4:52 p.m.

APPROVAL OF MINUTES

Commissioner Anderson moved, seconded by Commissioner Guazzo, to approve the minutes of the Commissioners' meeting of Tuesday, December 28, 1999, as corrected. Motion carried.

COUNTY ADMINISTRATOR

Present: George Forrest, Acting County Administrator

- Draft Agendas for January 11 and 18, 2000

1. **Department of Public Works**

Decision on the Road Right-of-Way easement (Eye Care Center/First Colony)

Having received correspondence from the applicant, Dr. Schwartzberg, the Commissioners agreed to defer a decision on the Right-of-Way Easement Agreement in order to allow Dr. Schwartzberg to provide additional information.

(The Commissioners indicated that a response should be received from Dr. Schwartzberg in approximately two weeks, after which discussion of the agreement should be scheduled and then the decision.)

2. **Office of Community Services**

Governor's Office of Crime Control & Prevention – Grant Agreement

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

3. **Department of Economic and Community Development**

Navy Aviation Technology Video

Also present: Martin Fairclough, Director, DECD

As a follow up to last week's discussion, Mr. Fairclough appeared before the Board to provide information relative to the Navy Aviation Technology Video. He stated that the video, which was initiated in partnership with the Navy, is designed to highlight Navy aviation. The Navy will be providing the footage, with the concept being that the video will be used not only in Southern Maryland, but other NavAir sites as well. The video, which has not been completed, will be personalized as it is being worked on, and will develop to be a vehicle to promote St. Mary's County throughout the country. Mr. Fairclough noted that the video required approval by the Navy and will have to meet the needs of the County. This will take approximately three months.

During the discussion the Commissioners emphasized the importance of the film footage on the video include St. Mary's County (at the beginning and the end).

(Kate Mauck took the minutes from this point forward.)

6:00 p.m.

**PUBLIC HEARING
PROPOSED MORATORIUM AND STUDY OF ZONING REGULATION FOR
CALLAWAY VILLAGE STUDY AREA**

Present: Al Lacer, County Attorney
Jon Grimm, Director, Planning and Zoning
Jeff Jackman, Planning and Zoning

The Commissioners held a public hearing for the purpose of amending the Zoning Ordinance as it relates to nonresidential projects in a one-mile radius of the intersection of Maryland Route 5 and Maryland Route 249, otherwise known as the Callaway Village Study area. The amendment, should it be adopted, would allow for a moratorium until July 15, 2000 on any applications, zoning, building permits, site plans, etc. contained within the Callaway Village Study area. This moratorium would allow Planning and Zoning time to evaluate fully the impact on this area for future planning purposes.

Mr. Lacer read portions of the proposed Ordinance and explained the reasons for pursuing this moratorium and the impact study. Mr. Grimm followed up by providing details of a December 22, 1999 report which was made available to the public. Mr. Grimm recommended to the Commissioners that the proposed amendments be adopted. He also provided a draft zoning map of the 1st, 2nd, and 9th districts of the county. Mr. Grimm pointed out that zoning regulations must be consistent with the Comprehensive Plan of the county. He stated that the state had no plans to improve the area, although there had been a 38% increase in traffic in the Callaway area between 1994 and 1997. According to Mr. Grimm, the character of the village in Callaway would be inconsistent with the character of the existing center. Individual property owners within this area had submitted eight rezoning requests. The December 22nd report outlines more fully the assessment of Planning and Zoning.

Commissioner Randall opened the floor for public comment. The following citizens or representatives spoke:

Clare Whitbeck – in favor. Ms. Whitbeck asked the Commissioners to adopt the amendment to the zoning Ordinance as soon as possible. She distributed an article from the Washington Post to each member.

Georgia Wheeler – in favor. Ms. Wheeler is a new resident in the county, having moved here because of the quality of life in St. Mary's County. She moved here from an area that had rampant growth with its accompanying problems such as roads, schools, etc. Ms. Wheeler wants the county to consider all aspects involved prior to allowing any further growth in the Calloway area.

John Garner – in favor. Mr. Garner is a lifelong resident of the county and is also concerned about the quality of life here. He stated that the county had no Comprehensive Plan until last year and as a result there has been unrestrained growth. Mr. Garner believes it is reasonable to take six months to ensure that the development of Calloway will meet the requirements of the new Comprehensive Plan.

Ed DiPiazza, representing Lexington Park Christian School – Mr. DiPiazza read a prepared statement outlining the efforts made on the part of Lexington Park Christian School to build along Route 5. In February 1999, the school submitted a concept plan requesting the rezoning of their property from a Rural Preservation District to a Village Town Center. They also requested a change to the Comprehensive Water and Sewerage Plan to permit the school to connect to the water and sanitary sewer. After meeting with

Planning and Zoning, the school changed their plan to include a right of way to the Pegg Road – Callaway by-pass and resubmitted their plan in July of 1999. Mr. DiPiazza stated that they had been waiting for almost one year for resolution of the original request to include the school's property in the Callaway Village Center. The school is unable to develop a site plan without resolution of this issue. The Commissioners were urgently requested to approve the school's February 1999 request, and further, to be exempted from this proposed Ordinance.

Roger Myerberg, representing property owner Dr. Moon – against moratorium due to his belief that it is illegal. Referred to a case in Queen Anne's County having to do with land use regulations. Mr. Myerberg stated that this Ordinance would negate the property rights of individuals.

Leonard Kohl - against. Mr. Kohl felt the moratorium would set a dangerous precedent in St. Mary's County, as it would lead to further moratoriums in other areas of the county. Mr. Kohl asked questions about accomplishments of the study and goals of the study as well as questions concerning what would occur should the study be incomplete on July 15th.

Jim Hall, representing Halls Pest Control – against. Mr. Hill observes the traffic, which is heavy only in the early morning and in the evening. At other times, the traffic is not a problem.

Tim Sperbeck – in favor. Mr. Sperbeck is a resident of Hunting Quarter. He welcomes development in Callaway, however, he has concerns about the traffic situation. Mr. Sperbeck stated that it is imperative that a traffic study be completed, as it is difficult to enter and exit Route 5. Proper access to Route 5 must be carefully planned out to ensure residential safety and commercial interests are best served.

Alison Taylor – in favor. Ms. Taylor expressed concerns about the traffic issue. She stated that the need for additional traffic lights would create more tie-ups. She also expressed concerns about the groundwater issue, stating that additional water use will decrease well water levels in adjacent wells. Ms. Taylor had over 1,200 signatures for the moratorium due to the groundwater issue. She also expressed concerns about crime issues involved with strip malls.

Steve Pyles, owner of Easy Stop and Way to Go Subs & Pizza – against. According to Mr. Pyles, backup at the light in Callaway is only a problem from 5:30 to 7:00 in the morning. The landowners have followed all the rules, and shouldn't be penalized for it.

Bill McKissick, Attorney for Bill Callaway and Vince Watkins - against. According to Mr. McKissick, the moratorium is a drastic measure, and the injury to private property owners would outweigh the benefits. Mr. McKissick brought two engineers with him – Dan Ichniowski and Herbie Redmond to do a site plan presentation. Mr. McKissick stated that the individuals he represents have invested substantial time, energy and money--they are Mom & Pop type operations, and this proposal would present a substantial financial injury to them. There would also be injury to the public interest and Planning and Zoning should be allowed to continue with an in-depth study of the area. Mr. McKissick also expressed concern for the greater public interest.

Dan Ichniowski, Engineer, representing Mr. Watkins - against. Mr. Ichniowski presented a work in progress map of the Callaway Marketplace, detailing square footage, acreage involved, a traffic study done, right-of-ways planned and buffers established. He stated that a unified plan is in place and this plan meets the rural requirements established by the county government. Mr. Ichniowski cited state traffic studies and suggested some of the traffic from Route 235 may be temporarily diverting to Route 5 while 235 is undergoing construction. He also discussed stormwater management implementations and future wetland possibilities.

Herbert N. Redmond, Jr., Land Surveyor, representing Callaway Village Shops – against. Mr. Redmond displayed plans for the shopping center – Phase 1 being a service center with gasoline, and Phases two and three including shops. There would be a widening of Route 5, passing lanes, etc. Detailed information was given concerning public water and sewer ability to accommodate controlled development, stormwater management plans, etc. Mr. Redmond pointed out that Mr. Callaway had come to him years ago and everything had been worked out for this plan except for Planning and Zoning.

William Callaway, representing Callaway Rentals - Mr. Callaway is against the moratorium. His property has been in his family since the early 1920's. He has invested considerable time and a great deal of money in tear down fees, filing fees, renovation fees, as well as the cost of purchasing a franchise with A & W. Due to a March 1, 2000 deadline, should this moratorium occur, he will lose the cost of the franchise fee altogether.

Vince Watkins - against. Mr. Watkins has invested enormous amounts of time and energy into the Callaway Market Place project. Over a period of two years, he has put more than \$200,000 into it personally. He showed the design of the project, which is all brick, with a tribute to the Piney Point Lighthouse, included. According to Mr. Watkins, should the moratorium occur, Food Lion, which is the anchor store, would pull out, as the options with Food Lion expire the end of March.

Reverend Moore, Pastor of Callaway Baptist Church – against. Believes the moratorium is morally wrong since businesspersons have already submitted plans and abided by all the rules, and this would cause undue hardship upon them. According to Rev. Moore, jobs would be lost should this occur. He stated that new business creates new wealth.

Paul Tolson – in favor. Mr. Tolson referred to prior remarks about traffic being diverted back to Route 235 after its completion. He pointed out that it is possible that in the future, potential plans for the connection of Route 249 to Pegg Road may bring traffic back to Route 5. He stated that it's already difficult to get on and off of Route 5, and that anything more will only make it worse.

Larry Hills – against. Mr. Hills expressed his concern that moratorium could be extended to a longer time period.

Bobby Knott – against. Mr. Knott stated that this issue is about people's rights and that the county is sending a bad message.

Martha Fenton – in favor. Ms. Fenton expressed concern with the water situation in St. Mary's County. Growth needs to slow down until this issue is addressed. She said that it currently takes six months to have a well dug, and many people she knows are currently having well problems. Ms. Fenton stated that water will eventually run out in the county if it is not managed and evaluated now.

John Horton – in favor. Mr. Horton feels that that a careful cost versus benefit analysis should be made prior to any further development. He gave First Colony as an example of where a moratorium should have occurred prior to its planning and development. Mr. Horton expressed concern over the traffic congestion at Route 4 and 235, as well as the appearance of Route 235. He feels Route 5 may eventually come to look like 235 in the future. Mr. Horton stated that there are already too many franchises and conglomerates on 235, and he doesn't want the Callaway intersection to turn into another Route 4 and 235.

Kenny Dement – against. Mr. Dement stated that no one approached the people of Callaway about the issue beforehand. He believes the shopping center will reduce traffic.

Linda Murdock – in favor. Ms. Murdock is a new resident in the county and has watched dramatic changes take place in the last few years. She feels that the nature and character of the entire county is changing, and she does not want to see it covered years from now with strip malls. She stated that the county does not yet know how First Colony will effect the area. She feels the government should pause to evaluate and analyze the big picture, and she wishes the moratorium were placed on the entire county and not just one area.

Christopher Cosner, President, Hunting Quarter – in favor. Mr. Cosner stated that Hunting Quarter will have approximately 200 homes on wooded lots, and that Hunting Quarter is located within 100 yards from the light in Callaway. He expressed concerns that proposed road development does not include any plans to change Route 5 from a two-lane to a four-lane road. The traffic is hazardous at the entrance to their development, and in addition, they want to preserve their rural community. As far as they know, no buffer is planned.

David Triantos – against. Mr. Triantos lives South of the Medley's Neck area. He currently has no congestion where he lives, and he likes it that way.

Commissioner Randall closed the public hearing for comments at 8:10 p.m. She announced that the Board of County Commissioners would accept any written comment during the next ten (10) days while the record is kept open. At the end of the 10-day period, the matter will be placed on the Commissioner's agenda for discussion and a decision will be rendered at that time.

ADJOURNMENT

The meeting adjourned at 8:15 p.m.

**Minutes Approved by the
Board of County Commissioners on 1/11/00**
Judith A. Spalding
Judith A. Spalding, Recorder