

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
Governmental Center
Tuesday, December 4, 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)

**GROUNDBREAKING CEREMONY
DR. JAMES FORREST TECHNOLOGY CENTER**

The Commissioners attended the Groundbreaking Ceremony for the Dr. James Forrest Technology Center.

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

CALL TO ORDER

The meeting was called to order at 10:30 a.m.

ADDITIONS/DELETIONS TO AGENDA

Commissioner Raley moved, seconded by Commissioner Anderson, 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' meeting of Tuesday, November 27, 2001, as corrected. Motion carried.

**PUBLIC HEARING
SOLID WASTE ORDINANCE**

Present: George Erichsen, Director, DPW&T

The Commissioners conducted a public hearing on the revisions to the St. Mary's County Solid Waste Plan. The Hearing was advertised in the local paper on November 14, and November 21, 2001.

Mr. Erichsen highlighted the revisions and referred to correspondence from the Maryland Department of Environment, one dated October 23, and the other dated November 7 indicating that the proposed revisions were acceptable, once the Plan is formally adopted by the County.

After comments from the Commissioners, Commissioner Randall opened the hearing for public testimony.

Mr. Warren Rich, legal counsel for Waste Management for St. Mary's County, brought the following issues to the Board's attention (and submitted a letter dated December 3, 2001 to be included in the record):

- A procedural error in that Article 9-503 of the Maryland Annotated Code required the notice of hearing to contain a summary of the revisions;
- Letter from Mr. Collins, Director, MDE, indicating that the Plan did not demonstrate that the County had secured adequate disposal capacity for the ten-year planning period and that the County was directed to modify Chapter V.
- There is no existing agreement for Calvert or King George County, Virginia, to provide waste disposal services to St. Mary's County; there is a memorandum of understanding, however, it is not enforceable.
- There is a misconception that the County is only responsible for what is collected at the convenience center, and that Mr. Erichsen in his deposition conceded that with respect to the Solid Waste Plan the County is responsible for all waste generated by the County.
- The Plan does not satisfy the State's requirement that the County pinpoint specific areas and precisely determine what will happen for each segment of the County.

Hearing no further comments, the public hearing was closed. The record will remain open for ten days for written comment, after which it will be placed back on the agenda for the Board's action.

COUNTY ADMINISTRATOR

Present: Alfred A. Lacer, County Administrator

1. Draft Agendas – December 11 and 18, 2001
2. Appointments

- a. Maryland Association of Counties Legislative Committee

Commissioner Anderson moved, seconded by Commissioner Mattingly, to affirm the Commissioners' appointment of Commissioner Randall as the legislative representative and Commissioner Mattingly as alternate. Motion carried.

- b. Tri-County Council Regional Transportation Executive Committee

Commissioner Mattingly moved, seconded by Commissioner Raley, to appoint Commissioner Anderson as the Commissioners' representative. Motion carried.

3. Department of Public Works

Present: George Erichsen, Director

- a. Public Works Agreement Addendum for Avenmar Subdivision, Section 1, 8th Election District, extending the completion date to December 1, 2002. The bond provided by the Travelers Casualty and Surety Company in the amount of \$155,000 remains as posted.
- b. Deed for accepting streets in Section 1, and Resolution for accepting street in Section 2, of the Forrest Farm Subdivision, 3rd Election District. Also, attached are Resolutions for establishing stop sign locations and 25-mph speed limit.

Commissioner Raley moved, seconded by Commissioner Raley, to approve and authorize Commissioner Randall to sign the DPW&T documents and to approve and sign the Road Resolutions as presented. Motion carried.

4. Finance Office

Present: Elaine Kramer, Director of Finance

- a. Resolution
Public Facilities Bond of 1997 – Asphalt Overlay; Retrofit Sidewalks

Commissioner Raley moved, seconded by Commissioner Anderson, to approve and sign Resolution for the Public Facilities Bond of 1997 as presented. Motion carried.

- b. Budget Amendment (\$14,787)
To transfer the excess appropriation authority in Recreation and Parks for the Maryland Historical Trust grant not received to a central account.

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

5. 2002 United Way Campaign Presentation

Present: Joyce Malone, Dawn Drew, June Brobrecht

The referenced individuals appeared before the Board to explain the 2002 United Way Campaign scheduled for December 10, and the activities that are planned for the Campaign. Ms. Drew explained that the employees will be given a pledge card and can designate the amount and the charity to which they wish to make a donation (United Way, Community Health Charities, and/or any specific charity of their choice. Payroll deductions will be made available if the employee so chooses.

Other fund raisers include guessing how many M&M's are in a jar (jars will be placed at various county buildings); a 50/50 raffle; and a Happy Valentine's Day Bake Sale.

Commissioner Anderson noted that at the United Way Campaign meeting, St. Mary's County was recognized for being the group in the County that was able to increase its participation the greatest amount.

6. Department of Planning and Zoning
Breton Bay Stream Assessment Project
Letter to Property Owners seeking consent to enter land to do assessment

Present: Jon Grimm, Director, DPZ

Mr. Grimm requested the Board's authorization for Commissioner Randall to sign a letter to the property owners requesting consent to enter their land to conduct the Breton Bay Stream Assessment to implement the Water Resources Administration's grant project.

The Commissioners requested that the letter be drafted for the entire Board's signatures and agreed to defer a decision until next week to allow the County Administrator an opportunity to review it and to get a more specific number of property owners involved.

**COMMUNICATIONS TOWER ORDINANCE
(FOLLOW UP TO PUBLIC HEARING)**

Present: Jon Grimm, Director, DPZ
John Norris, III, Deputy County Administrator

As a follow up to the public hearing, the Commissioners reviewed Mr. Grimm's memo of November 29, 2001, the memo from the Potomac River Association of

November 15, 2001, a memo from James Michael, on behalf of Sprint PCS, dated November 2001, and the amended zoning ordinance.

(Commissioner Guazzo entered the meeting at 12:02 p.m.)

After a discussion of the issues, Commissioner President Randall summarized the following recommendations:

- Only vested projects will be those that have previously received Board of Appeals' approval.
- Page 5, paragraph b(10) Ordinance to be modified allow three co-locators as a requirement but the preference will be five co-locators.
- Paragraph 7, Item (h) – add language that bonding will be required at the time of approval.
- Page 5, paragraph 12 – change language so that the easement will preserve and protect the buffer for the duration of the conditional use.
- Page 4, paragraph b(3) change line 10, from “proposed” to “approved” tower.

Commissioner Anderson moved, seconded by Commissioner Guazzo, to approve the referenced recommendations as summarized by Commissioner Randall. Motion carried four to one with Commissioner Mattingly voting against.

During discussion of the motion Commissioner Mattingly requested that the motion be amended to allow effective date of the Ordinance be January 1, 2002, in order to allow applicants in process to move forward. The Commissioners did not accept the amendment.

MEMORIAL CEREMONY FOR DECEASED EMPLOYEE (ROBERT ADAMS OF DPW&T)

The Commissioners conducted a memorial ceremony for Mr. Robert Adams, a Department of Public Works employee, who passed away.

ZONING ORDINANCE WORK SESSION

All Commissioners were present. DPZ staff present were Jon Grimm, Director; and Peggy Childs, Recording Secretary. Also present was Deputy County Attorney John B. Norris, III.

ARTICLE 5

The Commissioners reviewed the changes to Chapters 50 and 51, provided under Mr. Grimm's memo of November 29, 2001, directing as follows:

Chapter 50 – Use Classifications

Page 50-3, Item 1 –Agricultural Industry, Major – Staff to work with Farm Bureau to develop limiting standards to allow moderate and low-intensity agricultural-industrial uses in the RPD. Staff will also ask the Farm Bureau to take a hard look at separating major and minor agricultural industries to see if there is enough differentiation between the two categories.

Page 50-5, Item 9 – Add “L” under RPD and add limiting statement or footnote that only single duplexes are allowed, at 1:5 density.

Page 50-8, Item 19 – Delete “other” in third line.

Page 50-9, Item 25 – Change “P” to “L” in Industrial for vocational and technical skills training.

Page 50-10, Item 35 – Change “L” to “P” in RSC and RCL. Add “licensed by the Department of Health & Mental Hygiene” after the word “care” in line 3 of description. Delete remainder of statement.

Page 50-11, Item 36 – Change to “C” in VMX, TMX, CMX.

Page 50-11, Item 37 – Add “L” in RCL.

Page 50-11, Item 39 – Change “P” to “L” in RPD and add limiting statement “not allowed in existing residential subdivisions.”

Page 50-12, Item 45 – Delete “not exceeding 3500 square feet” in lines 1 and 2 of descriptive statement.

Page 50-13, Item 55 – Add “L” in RPD. Staff to add limiting standards on Page 51-23.

Page 50-18, Item 78 – Delete “P” in CM.

Page 50-19, Item 81 – Delete “power generation” in descriptive statement.

Page 50-19, Item 82 – Add “L” in OBP. Add limiting statement that “everything, including all fabrication components, must be stored within an enclosed building.”

Page 50-20, Item 89 – Add “P” in CM.

Page 50-22, Item 96 – Reword last sentence in descriptive statement to read “May include accessory retail sale of boats.”

Page 50-24, Item 110 – Add “A” in CM. Delete “residential areas” from line 2 of descriptive statement.

Page 50-25, Item 115 – Add “A” in CM.

Accessory Trucking, Item 123

Page 51-54, Lines 42-46 and 51-55, Lines 1-3 – The Commissioners chose not to adopt the standards proposed by staff. Commissioner Randall said we are trying to craft this section of the Ordinance to address a single problem. Commissioner Anderson was opposed to the standards without a way that the citizens’ issues could be addressed. Commissioner Mattingly said he is not willing to put successful county farmers out of business. Commissioner Raley stated he will not make the dozen or so trucking operations in the county which have not caused a problem nonconforming and he will not overturn the Board of Appeals’ decision and legitimize the trucking operation on Chingville Road. Commissioner Guazzo stated she will not support the inclusion of this category in Chapters 50 and 51 for those reasons.

Chapter 51 – Use Regulations and Standards

Page 51-1, Lines 24-32 – Change Roman Numerals to Arabic Numbers after “Article.”

Page 51-1, Line 30 – Change “design” to “development.”

Page 51-3, Lines 6-7 – Delete.

Page 51-3, Lines 8-11 – Reinstate as number (3).

Page 51-6, Line 12 – Change from capital to small “p” in “Permits.”

Page 51-6, Line 42 – Change “40 feet” to today’s height requirement.

Page 51-8, Lines 3-4 – Staff to reinstate today’s standard for percentage of total tract.

Page 51-8, Line 15 – Add “Garden Apartments” to definition section.

Page 51-8, Line 23 – Add “rear” between “Private” and “yards.”

Page 51-10, Lines 22 –24 – If governed by the Building Code, delete. Line 28, correct to “continuous.”

Page 51-11, Lines 4-7 – If governed by the Building Code, delete.

Page 51-12, Lines 34-38 – Delete.

Page 51-16, Public Safety Facility – Add item (3) under General Standards: “All requirements and standards for stations as dictated by the St. Mary’s County Fire Board and St. Mary’s County Ambulance Association shall be allowed.”

Page 51-16, Lines 37-38 (Rural Practice) – Add “at least” between “of” and “five.” Change “Access to property by public road” to read “The property must abut a public road.” Line 43 – Add period after “property owner.” Delete remainder of item (2).

Page 51-17 Line 14 – Change “5 p.m.” to “6 p.m.”

Page 51-17, Line 25 – Delete “Limited Standards and” as this use is now all *Conditional*.

Page 51-23, Line 32 – Delete.

Page 51-26, line 9 – Delete “allowed” after “permitted.” Line 30 – Staff to check whether the FAR figure should be .15.

Page 51-27, Lines 14-15 – Add comma after “45 feet” and after “drag strip.” Change “drag strip” to “racing surface.”

Page 51-32, Line 15 – Delete “and a financial guarantee for cleanup.”

Page 51-32, Line 11 – Change “rehabilitation plan” to “reclamation plan.”

Page 51-32, after Line 15 – Add “The proposed extraction must be in accordance with the plan for the development of the property, or a use otherwise permitted for the specific zoning district and the reclamation plan, as described below.” (Suggestion by Attorney Brian Dolan to ensure that the property is suitable for the proposed future use.) Commissioner Mattingly will provide Mr. Dolan’s letter to staff.

Page 51-33, Line 26-29 – Delete.

Page 51-51, Line 7 – Add “off-street” between “10” and “parking spaces.”

Page 51-53, Lines 13-14 – Change to read “no more than 2 large animals for each acre of land.”

The discussion ended at 5:20 p.m. Chapters 52, 43, 60, 61, 62, 63, 80 and 81 were carried over to the meeting of Tuesday, December 11, 2001.

(Kaaren Burke took the following portion of the meeting.)

SHERIFF’S DEPARTMENT (U.S. MARSHAL SERVICE CONTRACT)

Present: Sheriff Richard Voorhaar
Elaine Kramer, Director of Finance
Patrick Murphy, County Attorney
Sgt. David Zylak, Sheriff’s Department

Sheriff Voorhaar introduced Steven D. Akers, Deputy, U.S. Marshall, Surluta D. Schatzman, Chief, Program & Assistance Branch Prisoner Services Division, and Elizabeth L. Quick, Assistant Chief Deputy, U.S. Marshal.

Sgt. Zylak pointed out a correction for the “Projections” handout on page 3. Instead of 7 officers, it should read 11 officers and the bottom figure should read \$56.44 cost per inmate (which changes the net figures on pages 5 and 7).

The Intergovernmental Service Agreement (IGA) proposes that the St. Mary’s Sheriff’s office provide housing for up to thirty (30) prisoners. The IGA will be annually renewable at a per diem rate. The GAP Program would be a guarantee of 27 inmates or 90% for ten years.

Ms. Schatzman indicated there were two programs offered. The IGA which reimburses the County via a per diem rate per prisoner and the Cap program. (This proposal will be mailed to the Commissioners by the U. S. Marshal's Office.) The Cap program will provide the County financial assistance to cover extraneous costs for additional construction, or remodeling, etc., for the purpose of providing beds for prisoners. This program would provide a capacity of 27 prisoners or 90% for ten years. There are stipulations as to the medical care, and staffing. However, Sheriff Voorhaar pointed out that either agreement would provide a positive revenue source to the County (reflected in the handout at Total Projected Gross Revenue for FY2003: \$1,055,708).

Ms. Kramer from Finance indicated that this program could go ahead at no risk as soon as March 1, 2002 and County Attorney Murphy offered there were no "red flags" in the IGA agreement.

Commissioner President Randall requested that staff work with the Sheriff's Office in analyzing the information to determine if this is something that County would like to do.

PUBLIC FORUM

The Commissioners conducted the regular monthly public forum accepting comments from the audience and via telephone:

Jonathan Edwards, 45915 Town Creek Shop Lane, California, MD

As an owner of a small business, he stated how hard it was to conduct business in St. Mary's County. Mr. Edwards would like the obstacles in trying to construct a building on his property to end; that he wanted back the 5,000 s.f. that he lost; and he would like to meet with Mr. Lacer, County Administrator.

Commissioner President Randall stated Mr. Edward's concerns would be passed onto Planning and Zoning and to Mr. Lacer.

Gilbert Naru, 46704 Robert Leon Drive, Lexington Park, MD

As a resident of Willow Woods, wastewater management issues are still unresolved. The developer, Clement Brook, has failed to respond. Mr. Naru asked what action can the citizen take against Mr. Brook. Mr. Naru referred to an October 18 deadline and that Mr. Brook has not honored that deadline. The County Commissioners already stopped the issuance of new building permits but the wastewater issue is still open. Commissioner Guazzo stated the ball was in Brook's court now and Commissioner Raley offered that the Board took drastic action by denying him permits. *The Commissioners indicated that the Director of DPW&T will be contacted to find out what document imposed the October 18 deadline will advise Mr. Naru of that outcome.*

Cathie Gardner, 20457 Falling Pines Lane, Leonardtown, MD

Ms. Gardner was present at the accessory trucking discussion held during the zoning ordinance work session. She thanked Commissioner Raley for his strong opposition to the proposed language in the accessory trucking operation issue. The Board of Appeals overturned Mr. Grimm's determination that the operation of Atlantic Coastal Trucking was an accessory to a Chingville Road farming operation. Now that the matter is at the Circuit Court, the homeowners are faced with additional obstacles - vandalism and County government indifference. Citizens should not have to encounter harassment when they speak out against an issue or fight with their government for enforcement of ordinances.

Roy Stolle, 46707 Robert Leon Drive, Lexington Park, MD

As a resident of Willow Woods, the issues have been presented to the Board three times. Mr. Brook has not met deadlines, fixed the problems, or responded to complaints. The Board must fine or penalize this developer to provoke action.

Georgia Wheeler, 18231 River Road, Tall Timbers, MD

"Damn the Developers, Full Speed Ahead" is the title of her presentation. She chatted with Commissioner Anderson at his town meeting last week and felt encouraged to present her views at the Commissioners public forum. She expressed concern regarding the fast development in Callaway and that the same could happen to other areas in the County. Is there a necessity for one-stop shopping centers? Why the need for another fast food restaurant or a Sheetz, a WaWa, or a grocery store? St. Mary's County is in danger of losing its quaintness because of redundant development. Avoid being "Waldorfed."

Commissioner Raley asked Ms. Wheeler to put in writing what she did not like about the Callaway plan and send it to him. She agreed to do so. Commissioner Raley stated that County Commissioners do not approve grocery stores or site plans. They do approve zoning. There is now a limit on "big boxes." Ms. Wheeler suggested an outside consultant to review future plans for development.

Gloria Daniels, 46913 Salamaua Court, Lexington Park, MD

Ms. Daniels, Vice President of the Lexington Manor Survival Team, representing the Philippine and Spanish communities. She read a statement in Spanish then translated it for the Commissioners in English. One problem is translators are not available in the community to assist residents of Lexington Manor. The housing and social service agencies have not helped. Many landlords no longer take section 8 vouchers or rental assistance vouchers.

Commissioner Anderson stated that since repairs have not been made by the landlord, Section 8 vouchers will not be permitted. *Commissioner President Randall recommended that Ms. Cynthia Brown at Office of Community Services be contacted for translation services.* There is a Lexington Manor Task Force that has relocated 17 families but the units are simply rented again. The Board is committed to try to work through these difficulties. However, to the Lexington Park Survival Team, the letters and calls to Congressmen against the Navy purchase of the property have certainly worked against a suitable solution.

Linda Murdock, 39700 Persimmon Creek Road, Mechanicsville, MD

Rampant development is a danger to the county. A Commissioner pointed out to her that even though her opinion is valued, it is a minority opinion. In 1999, 900 petition signatures regarding potable water were obtained. Commissioners did not respond and development did not slow down. Ms. Murdock stated that Callaway had eight development projects started before a moratorium could be enacted. In 1999, Ms. Murdock obtained 1200 signatures for a moratorium to be passed to limit development in the entire county until the ULDC could be enacted. She stated that one in five density will not solve the problem, that it should be one in 20. Urban blight is coming to St. Mary's County by the way of big box stores, there is no affordable housing or housing for the elderly.

Commissioner President Randall stated the zoning ordinance update has been a long process, and pointed out that building permits are down 60%. Commissioner Guazzo indicated that the situation is not so hopeless:

- The Tri County area is doing the aquifer study – but it's a long process
- The County has granted tax credits for 200 apartments in Lexington Park for the elderly
- The County procured 20 acres of land to be used for affordable housing
- Stormwater management has been enacted; development cannot be grandfathered.
- There is a new economic development director for the County now.

Edwin Dukes, 46553 Valley Court, Lexington Park, MD

Pleaded that the County be compassionate toward the residents of Lexington Manor. They have no money, possessions, nor food.

Greg Makrakis, no address given

Concerned about the zoning of the RPD with relation to the Chingville Road homeowners association. Future language in the zoning regulations will be important – ask residents how they will be impacted. For three weeks his family endured the foul smell of sludge in the fields. Departments of Agriculture and the Environment could not help. Would like this to be avoided next year because of the health issue. *Commissioner President Randall recommended contacting the sludge inspector for the County who may be of assistance in this matter.*

Tammy Vitale, Solomons

Represented Progressive Southern Maryland and offered to work with Lexington manor to eliminate problems between the landlords and tenants.

Minnie Russell, 16477 Dunbar Lane, Ridge, MD

Maryland has the highest rate of pathogens in the United States. She does not want Maryland to be a dumping ground for sludge or chicken manure. She further stated that she attended Commissioner Anderson's open forum and she expressed concerns about the misinterpretation of a dialogue she had with him. She indicated that she was a believer in the truth.

Mary Bailey, caller

It would be a good idea to convert one of the vacant big box stores to an ice hockey rink. It will bring in a lot of business to the County if run properly.

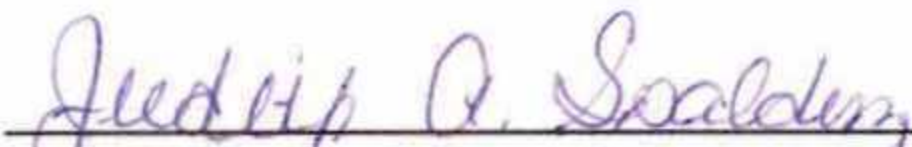
Stanton Hayden, caller

Why is the BOCC allowed to open its meetings with prayer, but the schools are not allowed to do the same?

ADJOURNMENT

The meeting adjourned at 8:20 p.m.

**Minutes Approved by the
Board of County Commissioners on _____**



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