

**ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS' MEETING  
Governmental Center  
Tuesday, January 8, 2002**

**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)

**CALL TO ORDER**

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

**ADDITIONS/DELETIONS TO AGENDA**

**Commissioner Raley moved, seconded by Commissioner Anderson, to accept the agenda as amended (to delete College of Southern Maryland and move up County Administrator time). Motion carried.**

**APPROVAL OF CHECK REGISTER**

**Commissioner Anderson moved, seconded by Commissioner Raley, to authorize Commissioner President Randall to sign the Check Registers for this week and for the past two weeks that the Board did not meet. Motion carried.**

**APPROVAL OF MINUTES**

**Commissioner Mattingly moved, seconded by Commissioner Raley, to approve the minutes of the Commissioners' meeting of Tuesday, December 18, 2001, as corrected. Motion carried.**

*During discussion of the minutes, Commissioner Anderson reported that the Resolution adopting the Watershed Commission identifies the Commission as a "Committee." He stated that the County Attorney advised that this could be changed by a letter in the Consent Agenda. The Commissioners concurred.*

**PROCLAMATION**

The Commissioners presented a Proclamation designating March 8, 2002, as the Kickoff for Knights of Columbus Charity Ball Day.

**ZONING ORDINANCE DISCUSSION NOTES**

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

- Page 20-4, Line 37 – Add "public" before "hearing."
- Page 20-5, Line 4 – After "public hearing." Strike the period and add "by the County Commissioners for inefficiency, neglect of duty, or malfeasance in office."
- Page 26-2, Line 1 – For density purposes, the entire parcel of land in the sending zone shall be counted. Sensitive areas shall not be included to calculate TDRs and a survey shall not be required of the property owner. Staff will use in-house data to determine the number of TDRs available. Sensitive areas shall be deemed to include: 1) slopes

- greater than 25%; 2) highly erodible soils; 3) wetlands and hydric soils; and 4) floodplains, as set forth in Chapter 71.
- Page 26-2, Line 10 – Add RPD. Add language that recorded RNC lots within the RPD have one building right and cannot be resubdivided to increase density by the purchase of TDRs.
  - Page 27-2, Line 4 – Add “, not including architectural and engineering costs;” following “investment.”
  - Page 29-2, Lines 17-19 – Include language from 66B that a 2/3 majority of the County Commissioners may overturn a determination of noncompliance by the Planning Commission. If state law has no special provisions, the opinion of the County Commissioners shall prevail.
  - Page 29-2, Line 16 – Add language that the Planning Commission *may* hold a public hearing prior to making a recommendation to the County Commissioners on Development Rights and Responsibilities Agreements, or there may be a *joint hearing* with the County Commissioners and the Planning Commission. However, it is the County Commissioners public hearing that is *required*, and a Planning Commission public hearing is *optional*.
  - Page 31-2, Line 20 – Add: “All other standards having been met, RNC lots in growth areas may be resubdivided to the base density of the RNC. TDRs may be used to increase the density in growth areas. No resubdivision of any lot of record shall be permitted in an RNC outside growth areas.
  - Page 32-2, Schedule 32.1 - Change Footnote 4 to state that Side and Rear Yard Setbacks may be reduced with written, recorded agreement from adjacent properties.
  - Page 32-2, Schedule 32.1, Maximum footprint of a Commercial structure with TDRs – Clarify that there is no maximum in DMX, CMX, CC and OBP, but that Footnote 5 applies up to 80,000 square feet (1 TDR for every 2,000 square feet) and Footnote 6 applies to 80,000+ square feet (1 TDR per every 1,000 square feet).
  - Page 32-3, Schedule TBD, Increase in units per acre with purchase of TDRs – Leave 1 in RNC but add new footnote that “TDR increase is possible only in growth areas.”
  - Page 32-3, Schedule TBD, Increase in units per acre with purchase of TDRs – Add language that “to increase density from 1:5 to 1:3 on a receiving parcel in the RPD and two (2) TDRs are required for each additional unit.” Also add this language to TDR section, 26.3.2.
  - Page 32-3, Schedule TBD, Methods for achieving Floor Area Ratio Increase – Retain increased incentive for bioretention by zone, 30% of existing forest, increase in landscaping and renewable sustainable or “green building” design. Staff to provide recommendations for other incentives. Duplicate “Other renewable sustainable or ‘green building’ design” within base density increase at 0.25.
  - Page 32-2, Schedule 32.1 - Delete entire Maximum Impervious Surface line.
  - Page 50-12, Item 52 – Delete “C” under OBP and replace with dash (-).
  - Page 50-18, Item 80 – Add “and furniture” after “cabinet.”
  - Page 51-19, Line 14 – After “5,000 square feet maximum” add “unless the Board of Appeals grants a Conditional Use approval.”
  - Page 51-16, Lines 15-16 – Place period after “down.” Delete remainder of sentence.
  - Page 52-3, line 19 – Change “two” years to “three” years.
  - Page 52-4, Line 11 – Change “three” years to “five” years.
  - Page 52-4, Lines 43-48 – Delete.
  - Page 52-5, Lines 1-14 – Modify existing text to read: “*Reconstruction of a Damaged Nonconforming Sign*. A nonconforming sign may be reconstructed [as authorized by Section 52.5], provided that no extension of the amortization period set forth above shall be granted for the reconstruction of a damaged, nonconforming sign.”

- Page 53-1 - Add to 53.2, Implementation, language that agriculture, aquaculture and silvaculture are the preferred land uses in the RPD.
- Page 61-1, Lighting Standards – Staff to double-check whether there is a minimum level of illumination standard in today’s regulations. [Note: In Sections 54.00.7, 56.11.6 and 58.8 of the current Zoning Ordinance, no minimum illumination is required.]
- Page 61-3, Line 4 – Delete “from view on all sides.” and replace with “so that it is not visible from a street or adjoining lot.” Consolidate 61.6.1 and .2 into 61.6.1.
- Page 61-3, Line 9 – Place period after “area” and delete rest of sentence.
- Page 61-4, Line 9 – After “standard side” add “or rear” yard ...
- Page 65-5, Lines 8-9. - Staff provided examples of Multistory office signs, answering the question “How many existing buildings would have to go to a Master Sign Plan as required under this Ordinance to get what they have today?” (Exploration I only.)
- Page 65-5, After Line 11 – Change “Maximum Size” of diagram to “250 sq. ft.”
- Page 70-10, Line 37 – Change item “(1)” above to item “3.a” above.
- Page 71-2, Line 26 – Delete “and prime agricultural soils (Types I, II, and III)”
- Page 71-3, Line 13 – Delete.
- Page 71-4, Line 14 – Add after “bank” “for intermittent streams; or”
- Page 71-4, Line 15 – Delete “Inside the Critical Area” and substitute “For all perennial streams,”
- Take up Commercial Marine uses and specifications, some of which is in Chapters 50, 51 and 64 at a later date.

*(Kaaren Burke recorded (the following portion of the meeting.)*

### **TRI-COUNTY COUNCIL REPORT ON ACTIVITIES**

Present: David Jenkins, Executive Director, TCC

Mr. Jenkins appeared before the Board to present the follow update on activities of the Tri-County Council.

#### **Military**

BRAC (Base Realignment and Closing) was pushed back to 2005 and the timeline may be as follows:

- Dec 2002 - criteria published for review
- Feb 2002 - final criteria published
- Mar 2005 - commission to be appointed
- May 2005 - recommendations to Secretary of DOD
- Sept 2005 - recommendations to the President (all or nothing)
- Oct 2005 - revised list to President
- Nov 2005 - if no list to Congress by President, process terminates

The Joint Strike Fighter (JFS) contract was awarded to Lockheed Martin in partnership with Northrup Grumman and BAE who have a strong presence in Southern Maryland. Testing begins at Pax River by 2005. Possible testing of the V-22 to begin at PAX in April 2002.

Currently working in conjunction with specific alliances on analyzing the economic impact in Southern MD from the military presence. A draft report will be offered by February 2002 and the Commissioners will receive a copy.

### Regional Priorities

- A progress conference will be held January 11, 2002 to monitor progress on the adopted priorities (transportation, economic development, agriculture, and education). Commissioner Mattingly will be there as Chair of the Tri-County Council for 2002.
- Working on incorporating Southern MD activities into the Capital region GSA vs. the Philadelphia region.
- Arsenic levels set at 10ppm by the EPA
- Transportation needs inventory forwarded to Secretary Porcari – top priority is the bypass in Hughesville
- TEDCO's eReadiness-Maryland Program is an ongoing survey to assess statewide requirements for business and residential high-speed access. The preliminary results will be reviewed on January 24, 2002. Subcommittees have been formed to review the results and Commissioner Anderson, Bob Kelly, George Forrest, and John Savich will be participating.

### Council Activities

- Quarterly newsletter issued in November 01
- FY02 DBED grant signed
- FY01 audit completed successfully
- FY03 budget underway, draft to St. Mary's in February 02
- Events:
  - January 11 – Regional Conference
  - January 16 - Executive Board, full council meeting, Loews, Annapolis
  - February 28 – Southern MD delegation reception at Loews, 7-10 p.m., in Annapolis

In response to an inquiry if the Tri-County Council was working on any Homeland Security issues at this time and, if so, when money would filter down to local jurisdictions. Mr. Jenkins responded there was no concrete information available now but would investigate the matter further.

Commissioner President Randall thanked Commissioner Mattingly for his excellent contribution to the Tri-County Council.

### **DETENTION CENTER**

#### **ANNOUNCEMENT OF ACHIEVEMENT AWARD**

Present: Donald Jones, Executive Director, Md. Public Safety and Correctional Services  
Sheriff Richard J. Voorhaar, St. Mary's County  
Captain Steven M. Doolan, Assistant to the Sheriff, St. Mary's County  
Sergeant David D. Zylack, Acting Commander of Corrections, SMC  
Lieutenant Evaughn C. Lennon, Assistant Commander of Corrections, SMC  
Ms. Mary Ann Thompson, Corrections Coordinator, St. Mary's County

A Recognition of Achievement Award was presented to the Detention Center for 100% Compliance of the Maryland Commission on Correctional Standards Audit. This is the fourth consecutive certificate awarded to the St. Mary's County Detention Center.

*(Judith Spalding took the following portion of the meeting.)*

### **COUNTY ADMINISTRATOR**

Present: Alfred A. Lacer, County Administrator

1. Draft Agendas – January 15 and 22, 2002
2. Letter of Appointment  
Airport Advisory Committee

**Commissioner Mattingly moved, seconded by Commissioner Guazzo, to approve and sign letter appointing Mr. Korey Smith to the Airport Advisory Committee. Motion carried.**

3. Fiscal Year 2002 Supplemental Appropriation Ordinances  
Office of Community Services  
(follow up to 12/18/01 public hearings)

Present: Joe Donick, Prevention Coordinator

- a. Traffic Safety Education for Summer Camps (\$37,200)
- b. Alcohol Enforcement Education Workshop (\$10,000)
- c. Addressing Impaired Driving (\$30,000)
- d. Implementation of Services to Families at Risk (\$40,000)

**Commissioner Anderson moved, seconded by Commissioner Guazzo, to approve and authorize Commissioner Randall to sign the Supplemental Appropriation Ordinances for the Office of Community Services. Motion carried four to one with Commissioner Raley voting against.**

4. Department of Recreation and Parks

Present: Phil Rollins, Director

- a. Program Open Space Grant Applications/Agreements
  - Nicolet Park (\$88,378)
  - Chaptico Park (\$200,000)
  - Piney Point Lighthouse Museum and Park Acquisition (\$335,000)

**Commissioner Guazzo moved, seconded by Commissioner Mattingly, to approve and authorize Commissioner Randall to sign the referenced Program Open Space Grant documents. Motion carried.**

- b. FY 2002 So. Md. Bicycle and Pedestrian Trail System Grant (\$50,000)

Also present: Vicki Volk, representing Delegate Bohanan

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

- c. Purchase Agreement and Escrow Agreement  
Steuart Property adjacent to Piney Point Museum  
(follow up to 11/13/01 announcement of intent to acquire property)

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

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

5. Department of Public Works and Transportation  
Intergovernmental Agreement with the Department of Social Services

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

6. Ordinance - Sheriff's Department Retirement Plan Amendment  
(follow up to 12/18/01 public hearing)

Present: Randall Schultz, Director, Human Resources

**Commissioner Guazzo moved, seconded by Commissioner Raley, to approve and sign the Sheriff's Department Retirement Plan Amendment Ordinance. Motion carried.**

During discussion of the motion, Commissioner Randall expressed concern that the Sheriff's Office has not completed the MOU process for the 911 Center that this was

a high priority, and that she indicated reluctance to support any future requests from the Sheriff until the MOU is completed.

Mr. Lacer indicated that there are follow up meetings scheduled to work on the MOU and once consensus is reached among the appropriate departments, it will be submitted to the Board.

7. Office on Aging  
Senior Health Insurance Program Grant Agreement

Present: Gene Carter, Director

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

After discussion Commissioner Guazzo suggested that Mr. Carter look into Tri-Care for information on medigap coverage.

*(The following portion of the meeting was recorded by Kaaren Burke.)*

## **COUNTY COMMISSIONERS' TIME**

### **Commissioner Guazzo's attendance at holiday functions**

Commissioner Guazzo enjoyed a Maryland game dinner party over the holidays that offered Southern Maryland deer, duck, fish, and goose. Also, a great outing for young families, teens, and everyone else was the New Year's Eve fireworks in Leonardtown. There were about 1000 attendees and it was great fun! *Thanks Leonardtown!*

### **FY 03 Budget Work Sessions**

*Commissioner Raley requested the Budget for FY03 work session on the CIP be delayed until February 18, and the work session on Thursday, February 21, be pushed back to February 25.*

### **County Bond Refinancing**

In response to Ms. Kramer's letter of December 26, 2001 about refinancing bonds, Commissioner Raley enthusiastically agreed it would be a wonderful idea due to significant savings. *It was requested that Mr. Lacer and Ms. Kramer produce a report on the savings to the Commissioners.*

### **New Year's Greetings**

Commissioner Anderson wished everyone a happy New Year!

### **Breton Bay Watershed Meeting**

Commissioner Mattingly will attend a meeting of the Breton Bay Watershed January 9, 2002. A citizens committee will soon be appointed.

### **Requests to Director, DECD**

Commissioner President Randall asked Mr. Savich (EDC) to investigate the following:

- *Touch base with Social Services and Labor Licensing Regulations to find out more about the grant program for helping the disabled and unemployed find work and get it on the BOCC agenda.*
- *Section 8 vouchers are available but landowners are refusing to accept the vouchers. Please make a recommendation on how the Board can encourage the vouchers be accepted by landowners.*

Commissioner Randall expressed Happy New Year to everyone!

**Sidewalk Program on Great Mills Road**

Commissioner Randall expressed deep concern that the sidewalk accessibility and ADA compliance has still not be completed.. The County staff must inspect the sidewalks on Great Mills Road and advise the Board what is not usable or compliant with the ADA. A complete report is to be made to the Board at the earliest possible time.

*(following recorded by Judith Spalding.)*

**EXECUTIVE SESSION**

**Commissioner Anderson moved, seconded by Commissioner Raley, to meet in Executive Session to discuss a matter 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  
 John Norris, Acting County Attorney  
 Jon Grimm, Director, DPZ  
 Robin Guyther, Director, P&I  
 Phil Rollins, Director, R&P  
 Richard Rohrbaugh, Director, OFM  
 Judith A. Spalding, Recorder

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

**Time Held:** 5:30 p.m. – 6:30 p.m.

**Action Taken:** The Commissioners discussed settlement relative to the First Colony litigation matter, gave direction to staff and agreed to meet in executive session next week on this issue.

*(following recorded by Kaaren Burke)*

**PUBLIC FORUM****Gilbert Naru, 46704 Robert Leon Drive (Willow Woods resident)**

The situation with the contractor hasn't changed. Revocation of Clement Brooks' building permits was done. Since then, Brook's attorneys have threatened legal action against him and his wife. Inquired whether Soil Conservation District decided on any action regarding the water situation (showed pictures to the Commissioners), and whether a timeline been established by any County entity to make this contractor fix the problems.

Commissioner Guazzo responded that the soil conservation plan for phase two was revoked which put the ball in the developer's court. Commissioner President Randall stated a letter was written to the County legal staff on December 18, 2001 to address Mr. Naru's concerns. Because of the holidays, they needed more time.

*Ms. Burke was requested to:*

- *Contact Mr. Norris, County Attorney, and ask him to respond with an anticipated timeline directly to Mr. Naru.*
- *Also, contact Planning and Zoning to inquire if Mr. Brooks was meeting his phasing plan schedule. If he is not, perhaps that could be added leverage.*

**Dick Myers, Vice President, St. Mary's Animal Welfare League,  
43706 Lifelong Landing Lane**

- Closing escrow on a property on Loveville Road for the first "no kill" dog and cat shelter but they need more community support for this effort
- "No More Homeless Pets" campaign for Southern MD underway
- To obtain grant monies from "Mattie's Fund," a coalition of various groups within the community is required. The Tri-County shelter has embraced this idea and will sponsor a meeting on January 24, at 7:00 p.m. at SMECO, Hughesville. The Commissioners are encouraged to attend. A five-year plan with spay/neuter clinics, adoption fairs, etc., will be discussed.

**Leonard Kohl (call-in), Callaway**

- Happy New Year to the BOCC!
- Commends the BOCC on the decision this afternoon to acquire the Steuart property for the Piney Point Lighthouse Museum. This will be an outstanding asset for St. Mary's County.
- Does the BOCC have a specific timeline established to initiate discussion on the Callaway Village Center Plan? If so, how soon will discussion and public hearings be held?

Commissioner President Randall replied that no timeline has been established. However, on the January 22 agenda, the Planning Director will lay out all projects to be completed allowing the Board to prioritize them.

**Keith Harless, Lexington Park**

- Suggests 60 days be allocated to the public to review the land development ordinance.
- That a public forum be set up before any public hearings are held. This would give landowners an opportunity to ask questions and obtain information.
- Recommends that when smart growth and annotated codes are used that they be referenced in the final document.

Commissioners Randall and Guazzo agreed that public information forums were an excellent idea.

- Environmentally constrained lots are a concern.

Commissioner Guazzo stated the landowners have a five-year period to determine whether or not to develop an environmentally constrained lot. After that, obtaining a variance is possible.

**Jim Vanreenan, (call-in), Ridge**

Requested an explanation why it was fair that he had to develop his property within the next five years or lose his development rights, especially since he has paid taxes for 30 years on this property under the assumption that he will always have the right to develop it.

**Clare Whitbeck, Leonardtown**

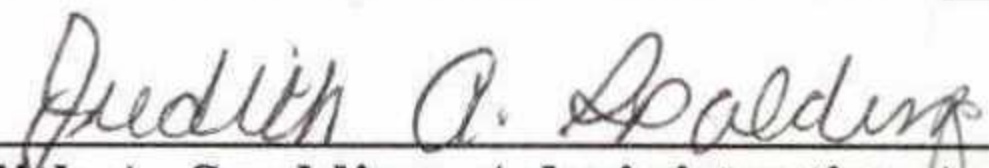
Arsenic in St. Mary's County has not changed. Suggested the Commissioners ask the Water Policy Task Force come forward to give them an interim report. The public needs to know this information.

**ADJOURNMENT**

The meeting adjourned at 7:30 p.m.

**Minutes Approved by the**

**Board of County Commissioners on 1/15/02**

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