

ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
Governmental Center
Tuesday August 20, 2002

Page 271

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
Donna Gebicke, Administrative Assistant to BOCC (Recorder)

CALL TO ORDER

The meeting was called to order at 10:08 a.m.

ADDITIONS/DELETIONS TO AGENDA

Commissioner Mattingly moved, seconded by Commissioner Anderson, to accept the agenda as presented. Motion carried.

APPROVAL OF CHECK REGISTER

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

APPROVAL OF MINUTES

Commissioner Anderson moved, seconded by Commissioner Guazzo, to approve the minutes of the Commissioners' meeting of Tuesday August 6, 2002. Motion carried.

COUNTY ADMINISTRATOR

Present: Alfred A. Lacer, County Administrator

1. Draft Agendas: August 27, and September 3, 2002

Commissioner Guazzo requested that an update on the Critical Area Commission hearing be provided to the Board as soon as possible.

2. Grant Agreements

- a. Office on Aging (*Gene Carter; Jennie Page; Bella Marmer, Medicaid Waiver Coordinator; Peggy Maio, Fiscal Supervisor*)

- (i.) Approve and sign Medicaid Waiver grant application (\$16,339)

Commissioner Guazzo moved, seconded by Commissioner Raley, to authorize Commissioner Randall to sign the Medicaid Waiver grant application. Motion carried.

- (ii.) Approve and sign Curb Abuse in Medicare and Medicaid Grant Award (\$12,000)

Commissioner Mattingly moved, seconded by Commissioner Guazzo, to authorize Commissioner Randall to sign the Medicare/Medicaid grant award. Motion carried.

- (iii.) Approve and sign Area Plan Update for FY 2003 Title III Funds received from State Dept. of Aging (update to Area Plan FY2001-2003)

Commissioner Mattingly moved, seconded by Commissioner Anderson, to authorize Commissioner Randall to sign the Area Plan Update. Motion carried.

3. Office of the Sheriff (*Sgt. Gerald Johnson*)
Approve and sign Federal Annual Certification Report for Dept. of Justice Drug Enforcement Administration – Equitable Sharing Funds (\$47,191).

Commissioner Raley moved, seconded by Commissioner Mattingly, to authorize Commissioner Randall to sign the Certification Report for Department of Justice Drug Enforcement funds. Motion carried.

4. Finance Department (*Elaine Kramer, Jeannett Cudmore, 2nd District Asst. Fire, Robert Springer*)
Approve and sign loan application letter for 2nd District Volunteer Fire Dept. & Rescue Squad (\$1,000,000).

Commissioner Anderson moved, seconded by Commissioner Mattingly, to sign the loan application letter. Motion carried.

5. “Fun in Wellness” Day, September 4 (*Al Lacer*)
Request approval to provide 2 hours administrative leave for county employees to attend

Commissioner Guazzo moved, seconded by Commissioner Mattingly, to authorize two hours of administrative leave on September 4, 2002, for county employees to participate in “Fun in Wellness” day. Motion carried.

6. Boards and Committees
Appointment Letters

<u>Economic Development Commission</u>	<u>Terms to Expire</u>
William J. Fitzgerald	6/30/2005
Jane Sypher	6/30/2005
<u>Social Services Board</u>	
Melvin “Mac” McClintock	6/30/2005
Patsy Davidson	6/30/2005
Katie Danko	6/30/2005
<u>Tri-County Animal Shelter Advisory Board</u>	
Jennifer L. Schoberg	6/30/2005
<u>Wicomico River Commission</u>	
Dr. Eugene Guazzo	12/31/2005

Commissioner Anderson moved, seconded by Commissioner Raley, to sign the letters of appointment. Commissioner Guazzo abstained from the vote. Motion carried.

HEALTH DEPARTMENT UPDATE: TOBACCO FERTILIZER AND DIRTY BOMBS

Present: Dr. Icenhower, Health Officer

Tobacco fertilizer is a by-product of cigarette manufacturing. The product, which is taken from cuttings of the tobacco plant, contains no additives, heavy metals or fecal coliforms. It is valued for its high nitrogen content, but it emits an extremely foul odor upon

fermentation. Dr. Icenhower met with representatives of Atlantic Coastal Hauling who agreed to plow the fertilizer under when it is delivered to mitigate the foul odor. The source of the fertilizer being used in St. Mary's County is Brown and Williamson Tobacco Company (B&W) in Richmond, Virginia. B&W contracts with Synagro Corporation, which files a bi-annual report on the amounts of fertilizer and an analysis of its composition. Synagro contracts with Atlantic Coastal to haul the product. The monitoring agency for the tobacco fertilizer is the Maryland Department of Agriculture (MDA).

It was recommended that Dr. Icenhower contact the Secretary of Agriculture to discuss establishment of a regulation requiring that the product be "disked" into the soil upon delivery.

Dirty Bombs are conventional bombs surrounded by radioactive material. Radioactive materials are more difficult to obtain than conventional bomb materials, but not impossible. While the fear factor related to dirty bombs is high, evacuation is necessary but not urgent. Other implications of dirty bombs include: decontamination is nearly impossible, radiation is only stopped by steel, lead or concrete, and extensive damage results.

The Department of Energy monitors large US ports for shipments that may include radioactive materials and for recovery and transportation of radioactive materials.

BAY DISTRICT VOLUNTEER FIRE DEPARTMENT BRIEFING

Present: Keith Fairfax, President; Dave Smiley, Asst. Fire Chief, and Bruce Ladire
Bay District VFD
Dan Baker
Joe Guyther, Mechanicsville VFD
Bobby Moore, Bill Clover, and Steve King, MetCom
Phil Cooper, Director, Emergency Communications
Adam Knight, Permits & Inspections

The Board of County Commissioners were briefed on a three-alarm, three-story condo fire in the Villas at Cedar Cove that took place on July 12, 2002. Fire attack methods, suppression strategies and tactics were reviewed. An in-depth critique carried out by the Bay District VFD after the fire resulted in the following conclusions and lessons learned:

- Effective sprinkler systems and a solid building code are essential to keep fire from spreading.
- Constant reviews of the building code and enforcement of the codes are imperative
- The truss construction, as evidenced in this fire, is hazardous to firefighters
- Adequate water pressure and an ample supply of water is mandatory
- Need well-trained FD and RS personnel
- Need adequately funded FD, RS and ALS
- The Villas fire was a good and safe "stop"

Mr. Fairfax thanked all the fire departments, rescue squads and MetCom personnel for their support in successfully stopping the fire. It was a true partnership effort. MetCom personnel Bobby Moore and Bill Clover were presented with special display shadowboxes. The Commissioners commended the fire department and all those involved for their professionalism during the fire and the subsequent critique carried out by the Bay District VFD. Commissioner President Randall offered condolences on behalf of the Board of County Commissioners to the Bay District VFD and to the family of Chief Johnson who passed away on August 17.

COUNTY COMMISSIONERS' TIME

Commissioner Mattingly

- Congratulations to all those who participated in National Night out.
- Held the Fire and Rescue Appreciation Day at the Governmental Center and a good time was had by all.

- Appreciate all those citizens who came out to express their opinion at the trails meeting the other night. The input is appreciated.
- An Executive Board Tri County Council meeting will take place August 22.
- On August 23, the Fire and Rescue and Police Memorial Golf Tournament will take place at Wicomico. It's a fund raiser for the fire fighters, police, and rescue personnel within Southern Maryland killed in the line of duty.

Commissioner Guazzo

- The highlight of this week was attending the Recreation and Parks hiker/biker trail public meeting. There were 10 who spoke for the project and 22 who spoke against the project (2 to 1 against the trail). This project needs to be carefully thought out - if it is to be done at all. The County has erred in taking zero care of the right-of-way property they have owned for thirty years. Why should the citizens think this neglect will change? Listen to the people who live along the right of way. As is stands, I am against the proposal and agree with many speakers that the county's \$50,000 should be spent on current projects and that new projects should not be developed.
- On August 21 and 28, the League of Women Voters will hold a public forum at 7:00 p.m. at the Jury Assembly Room in the Leonardtown County Courthouse. Most of the candidates for commissioner and sheriff will be there.

Commissioner Anderson

- Congratulations to the Ridge VFD for two superb weekends of carnival activity. Every night was a banner night.
- Attended the Knights of St. Jerome's annual dinner and program where scholarships were distributed. They are to be commended for their efforts in supporting education. Also congratulations to Bobby Gant, President, who has been prominent in the county for thirty years.
- *Request an update on the Livability Code enforcement activity at Lexington Manor.*
- *Request a public informational meeting be held on the Livability Code at a central location in the near future.*

Commissioner Raley

- Encourage citizen participation in the open forums to meet candidates and ask questions. It's a challenge for the candidates to answer complex questions and their ability to do so is commendable.

YOUNG EAGLES PRESENTATION

Present: Eric Chase, Membership Committee, Experimental Aircraft Association (EAA)

EAA's mission is to foster and encourage participation, high standards and access to flight in an environment that promotes safety, family and personal fulfillment. EAA and the EAA Aviation Foundation developed the Young Eagles program to generate an interest in aviation for young people. The program's goal is to take one million young people for a demonstration airplane ride by the year 2003 – the 100th anniversary of powered flight and the 50th anniversary of EAA. Within the last two months, 800,000 Young Eagles have flown.

The Young Eagles Fly-in, Open House, Pancake Breakfast and Young Eagles Rally is scheduled for Saturday, September 14th from 8 am to 2 p.m. at the St. Mary's County Airport. Youth ages 8-17 will have the opportunity (with parental consent) to ride in an airplane and receive instruction on airplane function and flight safety. Search and Rescue police, Navy helicopters, float planes, model aircraft, Civil Air Patrol, Navy Flying Club and ultra-lights will be on display.

GROWTH ALLOCATION REQUESTS: DECISION

Present: Jon Grimm, Director Planning and Zoning
Sue Veith, Environmental Planner

The Commissioners reviewed and discussed Growth Allocation requests for Colton & Mossey Lea, Prospect Hill and Bohanan properties. (The Board of County Commissioners held its hearing for award of Growth Allocations for these properties on July 16, 2002.) Comments received during the open record period were reviewed along with staff responses to questions raised subsequent to the hearing, analysis of the growth allocation acreage for St. Mary's County, and staff and Planning Commission recommendations. Commissioner Guazzo noted that growth allocation decisions have a subjective component and that the request's impact on the neighborhood and the quality of the proposal for development are taken into consideration.

Colton & Mossey Lea

Commissioner Guazzo moved, seconded by Commissioner Mattingly, to approve the growth allocation request for Colton & Mossey Lea (00-100-058) with the stipulations that (1) the correct acreage of 11.51 acres be deducted from the growth allocation, and (2) plat notes that state no further subdivision should be allowed on the unsubdivided parcel, and (3) and to impose the Planning Commission and TEC recommendations. Motion carried.

00-140-039 Bohanan Property

Commissioner Mattingly moved, seconded by Commissioner Raley, to approve the growth allocation request for Lots 500-1 and 500-2 with the stipulations that (1) the correct acreage of 6.341 acres be deducted from the growth allocation, and (2) plat notes that state no further subdivision should be allowed on the unsubdivided parcel, and (3) and to impose the Planning Commission and TEC recommendations. Commissioner Guazzo voted against the allocation; Commissioners Randall, Anderson, Mattingly, and Raley voted in favor. Motion carried.

01-100-032 Prospect Hill

Commissioner Guazzo moved, seconded by Commissioner Mattingly, to approve the growth allocation request for Prospect Hill with the stipulations that (1) a buffer of 300' be imposed and a total acreage of 4.726 acres be deducted from the growth allocation, (2) removal of the dirt road paralleling the shore and revegetation of the abandoned roadbed; and (3) plat notes that state no further subdivision should be allowed on the unsubdivided parcel, and (4) and to impose the Planning Commission and TEC recommendations.

Planning and Zoning staff was directed to put together information for the 2003 Legislative Package that addresses concerns regarding the State's policy to draw down growth allocations as quickly as possible. Staff will poll critical area planners in the area to determine support for potential legislation.

WORK SESSION: ZONING ORDINANCE AMENDMENTS

Present: Jon Grimm, Director Planning and Zoning

The Commissioners reviewed an updated list of potential amendments to the Comprehensive Zoning and Subdivision Ordinances and a zoning map amendment.

Following review and discussion the Commissioners concurred to take all of the potential amendments to a public hearing held jointly with the Planning Commission. Staff will work with the Planning Commission to schedule the hearing.

Commissioner Guazzo suggested that farmstead lots connected to a minor subdivision not be required to meet the county road standards.

Commissioner President Randall requested that notices of public hearings and other county posted notices be made more readable, e.g, using brighter colors.

THREE NOTCH RECREATION TRAIL DISCUSSION

Present: Phil Rollins, Director Recreation and Parks
Mr. Harper, Recreation and Parks Board
Dan Donahue, Chair, Recreational Trails Committee

Phil Rollins reported on the public information meeting that was held on August 14 in Mechanicsville to provide information on the proposed first phase development of the Three Notch hiker/biker trail. The trail is proposed to be constructed on the St. Mary's County railroad right-of-way, which runs south from Charlotte Hall to Lexington Park. Plans are to develop the trail in three phases. The first phase was proposed to begin at Laurel Grove Park and end at the Rt. 5/235 intersection. Mr. Rollins reported that there was a large attendance at the public meeting, with approximately ½ indicating support and ½ opposed to the proposed phase I of the bike trail.

Based on the feedback received at the public information meeting, further direction regarding next steps for the recreational trail project was requested by Mr. Rollins. Mr. Rollins indicated that there were several reasons why the Phase I location was proposed: it ties into an existing park, and this section of trail is in fairly good condition and the easiest to get developed and usable with the funds made available. \$175,000 is currently available for phase I development of the trail.

Commissioners Randall, Anderson, Mattingly and Raley agreed that the concept of a recreational trail is a good one, but that the project needs to be well planned and citizens concerns must be allayed. It is important to have a successful model trail project in place to provide citizens with a visual representation of how the trails will look and how they will impact the community. Commissioner Guazzo stated that the project is not suitable for the northern end of the County and suggested that the funds for this project be directed to the Lexington Park Plan or another existing project. Commissioner Guazzo also pointed out that the County has been a poor steward of the railroad right-of-way property. The long and short-term plans for the property have not been adhered to. Policing, trash removal and prohibiting of motorized vehicles on the property have not been carried out.

Commissioner Anderson moved, seconded by Commissioner Mattingly, to return the recreational trails proposal to the Recreation and Parks Department and Board for further consideration and planning, taking into consideration input received from the public meeting, and to request that the Recreation and Parks Department return to the Board of County Commissioners with a revised proposal for Phase I of the trail in another location. Commissioner Guazzo voted against the motion. Commissioners Anderson, Mattingly, Raley, and Randall voted for the motion. Motion carried.

The Commissioners requested that the County Administrator work with Department Heads to develop a plan for active stewardship of the railroad right-of-way.

Future proposals for hiker/biker trail will continue to be presented at public information meetings.

Commissioner Anderson moved, seconded by Commissioner Raley, to enter Executive Session at 5:06 p.m. Meeting was adjourned then resumed at 6:30 p.m. for the Public Forum.

**EXECUTIVE SESSIONS: Litigation [Article 24, Section 4-210(a)8]
Personnel [Article 24, Section 4-210(a)1]**

Commissioner * moved, seconded by Commissioner *, to meet in Executive Session to discuss matters of Property Acquisition and Personnel, as provided for in Article 24, Section 4-210(a)8 and 4-210(a)1, respectively. 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
Donna Gebicke, Recorder

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

Time Held: 5:13 p.m. – 6:00 p.m.

Action Taken: The Commissioners discussed a litigation matter and gave direction to staff.

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, County Administrator
Donna Gebicke, Recorder

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

Time Held: 6:00 p.m.-6:15 p.m.

Action Taken: The Commissioners discussed personnel matters and gave direction to staff.

PUBLIC FORUM

Lisa Russell, 45590 Sunflower Street, Great Mills was representing Southern Maryland BMX and wanted to thank the Board for their support. It was recommended she contact Phil Rollins, Director Recreation and Parks, for more detail on the proposed BMX track location.

Cathie Gardner, 20457 Falling Pines Lane, Leonardtown stated her continuing frustration over the illegal trucking operation on Chingville Road. Over nine months, she has made 8 crime reports and vandalism and harassment continues. Ms. Gardner is concerned that County Government is not enforcing the cease and desist order against Atlantic Coastal Trucking.

Barne Wheeler, 18231 River Road, Tall Timbers was representing the St. Mary's County Citizen's Coalition which was formed to help citizens have a more effective voice on what is going on in the county. A letter will be provided to the Board stating the coalition's position asking that specific corrective steps be taken immediately to alleviate the continuing abuse and intimidation against the Gardners'.

Walter Burch, 23065 Shady Mile Drive, California commented about the Ethics Commission meeting held August 19, 2002. The Ethics Ordinance is mandated by state law and the county attorney cannot be the official interpreter of the Ordinance. Outside counsel, not the county attorney should be retained to assist the Ethics Commission so it can be objective in its decision process.

Tom Coyne, 21059 Larkspur Court, Leonardtown, as President of the Medley's Neck Homeowner Association, request the Board enforce the Court of Appeals ruling against Atlantic Coastal Trucking and demonstrate swift, clear, definitive action to enforce the laws of this community.

Ken Hastings, 39044 Holly Drive, Mechanicsville stated there is confusion about the Development Review Forum (DRF) and why the Ethics Commission required they complete Financial Disclosure Statements (FDS). Suspect the Commissioners are "buying time" to keep the situation under wraps because it is an election year. The worst case scenario for the Board is if the Ethics Commission stands firm on their decision and the Potomac River Association or other entity takes the issue to circuit court.

Christie McDonald, 45577 Knokeyon Lane, Great Mills offered pictures of her backyard and a handout to the Board members. The water in her backyard is beyond a grading issue. Was there a permit for a walk-out basement? Cannot get the answer from Permits and Inspections. There was a grading code before April 2002. The builder has made no corrections to the problem.

David Triantos, Medley's Neck represents the Medley's Neck Homeowner Association. The Association supports the statements made by Tom Coyne and Mr. Wheeler. Many members are present to show their support as well.

Bob Lewis, Point Lookout Road, Lexington Park represents himself and is concerned about the Ethics Commission. This commission has asked for Financial Disclosures Statements from the DRF because of a complaint that was issued by John Roberts, a member of the Ethics Commission. Who is the county attorney representing when he says the DRF is not required to complete the FDS? The DRF as an ad hoc committee is required to file FDSes.

George Johnson, Chingville Road stated he read about the harassment of the Gardners' in the newspaper and was surprised by the lack of County action. Please stop Atlantic Coastal Trucking operations on Chingville Road.

ADJOURNMENT

The meeting adjourned at 7:07 p.m.

**Minutes Approved by the
Board of County Commissioners on 8/27/02**

Donna M. Gebicke
**Donna M. Gebicke, Administrative Assistant
to the Board of County Commissioners**