

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
Governmental Center
Tuesday, March 4, 2003**

Present: Commissioner President Thomas F. McKay
Commissioner Kenneth R. Dement
Commissioner Lawrence D. Jarboe
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 9:03 a.m.

APPROVAL OF CHECK REGISTER

Commissioner Jarboe moved, seconded by Commissioner Raley, to authorize Commissioner McKay to sign the Check Register. Motion carried.

APPROVAL OF MINUTES

Commissioner Dement moved, seconded by Commissioner Raley, to approve the minutes of the Commissioners' meeting of Tuesday, February 25, 2003, as amended. Motion carried.

**PROCLAMATIONS:
COLORECTAL CANCER AWARENESS MONTH**

Present: Karen Russell, Melissa Meatyard, Denise Mortensen, Nancy Luginbill, Mary Novotny, Health Department; Sherrye LaRoche, Cancer Society

March is the month selected to inform the community of this serious cancer which is the second leading cause of death in Maryland. Testing kits are available upon request. Citizens were asked to call the Health Department for further information.

**DISABILITY AWARENESS MONTH AND "HIGH HOPES FOR EVERYONE"
DISABILITY DAY**

Present: Jackie Fournier, Chair of Commission, Arthur Shepherd, Event Cmte Chair, Cindy Phillips and Cynthia Brown with OCS

To celebrate everybody's abilities, the 4th annual kite flying day will be held March 21, from

1:00 to 4:00 p.m. at Miedinski Park, Governmental Center. Come early because 300 free
kites
will be given out. There will also be prizes, food, and lots of fun for everyone.

PURCHASING MONTH

Present: Elaine Kramer, Director of Finance
Carol Gallagher, Procurement Manager
Cathy Bowles, Senior Buyer
(Shelly Bean and Rita Adams were unable to attend)

The Board joined with Professional Purchasing Associations throughout the United States and the State of Maryland in celebrating a special observance of Purchasing Month. The Commissioners presented the Director of Finance, Procurement Manager and Senior Buyer with a proclamation declaring March as "Purchasing Month" in recognition of the department's contributions. It was noted that the first series of Procurement Policy Review Committee meetings will begin in March.

COUNTY ADMINISTRATOR

Present: Alfred A. Lacer, County Administrator

1. Draft Agendas: March 11 and 18, 2003
2. Finance Department - Budget Amendments *(Elaine Kramer, Director)*
 - a. To approve and sign transmittal letter and authorize Comm. President to sign Budget Amendments #2003-97, 98, 99 that will close or reduce funding on 11 capital projects and set up 3 new capital projects for SMCPS

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve the transmittal letter. Motion carried.

Commissioner Mattingly moved, seconded by Commissioner Dement, to authorize Commissioner McKay to sign budget amendments 2003-97, 98, 99. Motion carried.

- a. To approve and sign transmittal letter and authorize Comm. President to sign 4 Budget Amendments which will adjust the appropriations for 16 capital projects that were deferred or eliminated during the course of the FY04 capital budget work sessions: #2003-88, #2003-89, #2003-90, #2003-91

Commissioner Jarboe moved, seconded by Commissioner Dement, to sign the transmittal letter and authorize Commissioner McKay to sign budget amendments 2003-88, 89, 90, 91. Motion carried.

- b. To approve and authorize Comm. President to sign Budget Amendment #2003-96 reversing the grant award from MDBED for feasibility study of the Lexington Park Focus Enterprise Zone (\$58,000)

Commissioner Jarboe moved, seconded by Commissioner Dement, to authorize Commissioner McKay to sign budget amendment 2003-96. Motion carried.

- d. To approve and authorize Comm. President to sign Budget Amendment to provide additional funds to cover expenses incurred as a result of the Household Hazardous Waste Collection events of 2002 \$(20,000)

Commissioner Jarboe moved, seconded by Commissioner Dement, to authorize Commissioner McKay to sign the budget amendment. Motion carried.

Commissioner Jarboe requested that staff find out the hazardous waste contractor's current disposal location.

- 3. Department of Public Works and Transportation (*George Erichsen, Director*)

- a. To authorize Commissioner McKay to sign Public Works Agreement for Hickory Hills North Subdivision, Section 3, located in the 8th Election District, with an expiration date of March 1, 2004. A bond has been provided by the Travelers Casualty & Surety Company in the amount of \$555,100. The roads included in this agreement are: Athlon Drive (434'); Kinnegad Drive (1,106'); Corkaree Place (134'); Ballymore Place (167'); Kilbeggon Court (243'); Moycashel Place (200'); and Shannon Street (191').
- b. To authorize Commissioner McKay to sign Public Works Agreement Addendum for Southwoods PUD Subdivision, Phase 1, located in the 8th Election District, with an expiration date of March 1, 2004. The bond provided by the Developers Surety & Indemnity Company in the amount of \$361,800 remains as posted based on the Department's February 20, 2003 inspection. The Public Works Agreement and Bond in the amount of \$361,800 were originally issued on August 5, 1999. The roads included in this agreement are: Birds Eye Court (652'); Arum Place (137'); Caraway Place (122'); Dayflower Place (236'); and Fox Den Court (667')
- c. To authorize Commissioner McKay to sign Public Works Agreement Addendum for Southwoods PUD Subdivision, Phase 2, located in the 8th Election District, with an expiration date of March 1, 2004. The bond provided by the Developers Surety & Indemnity Company in the amount of \$341,200 remains as posted based on the Department's February 20,

2003 inspection. The Public Works Agreement and Bond in the amount of \$341,200 were originally issued on August 6, 1999. The road included in this agreement is: Baywoods Road (2,273’).

Commissioner Mattingly moved, seconded by Commissioner Dement, to authorize Commissioner McKay to sign PWAs 3a., 3b., 3c., as presented. Motion carried.

4. Development Rights and Responsibilities Agreement
Requesting confirmation to submit to the Planning Commission

The Option Agreement with Club Properties is now fully signed and delivered. Attorneys for both parties confirmed the collateral understanding regarding staying the litigation and referral of the DRRA to the Planning Commission. The next step will be to refer the DRRA to the Planning Commission for its attention at their April 2003 meeting. The DRRA will be considered and studied by the PC at one or more meetings and then referred back to the Board. The Board will consider any recommendations and take such action as it considers appropriate. The net affect is to implement what had been negotiated over a long period of time and what was anticipated by the Board’s November 2002 action.

Commissioner Mattingly moved, seconded by Commissioner Raley, to refer the Development Rights and Responsibilities Agreement to the Planning Commission for a recommendation pursuant to Chapter 29 of the SMC Comprehensive Zoning Ordinance. Motion carried.

COMMISSIONERS’ TIME

Commissioner Dement

- Presented a proclamation to Mr. Preston Hopkins who retired after 44 years from NESEA.

Commissioner Mattingly

- Along with Commissioner McKay, attended a NESEA retirement luncheon for David Abell. Congratulations on a long and successful career.
- Attended the Southern Maryland Reception and networked with the Legislative Delegation to share interests of SMC.

Commissioner Jarboe

- On March 1, attended the Oakwood Lodge’s “Oakwoodstock” with talented groups performing folk to jazz music. It was a great event and videotape, so hopefully the event will be aired on channel 12 soon. Local musicians are a great resource in SMC and Gary Rue organized a great event.

Commissioner Raley

- Also attended the reception in Annapolis and would like to thank staff for their exhibits which were well done. Thanks to all the citizens who arrived on the bus representing SMC.
- Request a briefing on the Charter School concept.
- Mr. Erichsen, Director DPW&T, asked about his memo dated February 11, 2003, regarding the Ridge Volunteer Rescue Squad waiver on disposal fees. Agree with Mr. Erichsen's memo. Accountability is essential.

Commissioner McKay

- Would like to recognize DPW&T, Facilities Management, and Recs and Parks for great snow removal. Also want to recognize and thank all county employees for the good work they do every day.
- *Request DECD draft a letter to the Navy Alliance, Patuxent Partnership, and Chamber of Commerce asking them to prioritize the issues they believe the Board needs to be aware of in preparation for BRAC.*
- Karen Smith, Director of Inter-government Relations, Governor's office, will visit St. Mary's County on March 13 to help her be an effective voice for our County at the Governor's cabinet table.
- MACo Legislative Committee will take up the issue of support for the Governor's proposed video lottery terminal legislation this week. As a representative of this Board, my intention is to support this legislation. Commissioners should let me know if they disagree with this position.
- Legislation will most likely be passed on Charter Schools and it's an opportunity for SMC to be a leader in the state. Suggest that a Charter High School, with 200-300 students, sponsored by a PAX River group, be established with a focus on engineering and technology. This might delay the need for a new high school and add educational opportunities within the county.
- On April 4, will visit with Doug Duncan, Montgomery County Executive, and tour several Victory Youth Recreation centers in Montgomery County. Victory Youth are part of the Archdiocese of Washington. They expressed interest in doing a recreational project in SMC.

TOUR AND BRIEFING OF WICOMICO SHORES GOLF CLUB

The Commissioners departed to visit the Wicomico Shores Golf Course to tour the existing Clubhouse and receive a presentation on the proposed replacement facility.

ECONOMIC DEVELOPMENT COMMISSION RESOLUTION

Present: John Savich, Director DECD
 Joe St. Clair, President, EDC
 Charlie Hayden, Chair, EDC Restructuring Planning Committee
 Billy Fitzgerald, EDC
 Jane Harkin, EDC
 Guy Curley, EDC

Mr. St. Clair reported that the EDC Restructuring Committee evaluated EDC's role and how it functions in the community. The EDC sees the current structure as unwieldy, and, more importantly, the county has many excellent economic development organizations that need coordination, not another separate body. The proposed restructuring would provide the opportunity for the county to receive a more coordinated communication from the major economic development organizations and provide businesses with good information about initiatives and the opportunity to make themselves heard. The Council will be established by the Director of the Department of Economic and Community Development. The Council would be an "organization of organizations," comprised of leaders of business organizations and related groups, that would convene regular roundtables of businesses focused on specific topics.

Commissioner McKay asked that the first task of the council be to advise the Board on how to prepare for BRAC '05. He also emphasized the importance of communication with the Board either via memos, meetings, voicemail, or emails.

Commissioner Mattingly moved, seconded by Commissioner Raley, to adopt the resolution implementing the recommendations of the Economic Development Commission to restructure as the Economic Development Council as reviewed and approved by the County Attorney. Motion carried.

PROPOSED COMPREHENSIVE ZONING ORDINANCE AMENDMENTS: DISCUSSION/DECISION

All County Commissioners were present. County staff present were Jon Grimm and Peggy Childs, of DPZ, and County Attorney John B. Norris, III.

Having discussed the changes recommended in Mr. Grimm's memorandum dated 3/28/03, the Commissioners decided the following:

Marine Construction and Marine Terminals

No changes to Use #89 or Use #102.

Page 50-11, Use #44, Construction materials and equipment storage – Add "C" (Conditional Use) in CM district.

Page 51-16, Construction Materials and Equipment Storage – Add the following as Section 51.3.44.c.

"c. Conditional Use Standards

- (1) "In the Critical Area, stockpiling of marine related construction equipment and materials is not allowed in the Critical Area buffer unless in a Buffer Management overlay. Temporary staging shall be allowed in the Critical Area buffer in the LDA and IDA for loading and offloading barges used for *transportation of marine construction materials and equipment* only upon approval of a buffer management plan."

Page 63-6, Sections 63.4.5 and 63.4.6, Lines 9 and 23, Adjoining Vacant Lots – Same Zoning District and Adjoining Vacant Lots – Different Zoning District - Add the following:

“Should contiguous lots in common ownership interest be proposed for development, buffer yards shall be provided for adjoining uses as shown on the required concept plan. If the proposed use(s) change from that shown on an approved concept plan, a buffer yard shall be as required for the new use(s) at the time they are proposed.”

Page 44-5, Section 44.6, Line 36, Types of Planned Unit Developments
Add “and OBP” after “CMX”

Page 50-14, Use #65, Recreational facility, motor sports facilities

After “raceway” in line 4 delete “and any grandstand or stadium associated with either an” After “testing facilities” delete “and accommodations and concessions to serve patrons of the facility” and add “and maintenance repair.”

ADEQUATE FACILITIES

Page 70-10 to 70-11, Section 70.11.1 through 70.11.3.c – Add or delete language to read as follows:

1. ***Applicability.*** The provisions of this Section 70.11 apply to all development except:
 - a. Proposed development to be developed exclusively for non-residential uses; or
 - b. Proposed development to be developed according to federal regulations restricting occupancy in the dwelling units to persons 55 years or older; or
 - c. Proposed residential subdivisions that create fewer than six (6) lots.
2. ***Determining Adequacy.***
 - a. Elementary and secondary schools shall be adequate, as determined by Section 70.11.3,
To accommodate the school population to be generated from the proposed development.
 - b. The calculation of the school population to be generated by all development subject to such a determination shall use the guidelines for student yield as approved by the Board of County Commissioners.
3. ***Standards.*** Elementary and secondary schools in the zone established pursuant to Section 70.5.2(i) of the proposed development shall be considered adequate if:

- a. The school population projected to be generated from the proposed development may be enrolled at schools located in the zone established pursuant to Section 70.5.2.i without the enrollment exceeding one-hundred-seven (107%) percent of the state-rated capacity of the schools within the zone established pursuant to Section 70.5.2.i that the proposed development is located; or
- b. The County has budgeted in the then-current fiscal year of the Capital Improvement Program one-hundred (100) percent of design cost for the construction of additional schools or school improvements that, in combination with existing schools, satisfies the requirements paragraph 3(a) above; or
- c. The development proposal is for phased construction for which adequate capacity is projected to be available pursuant to school enrollment projections for the schools within the zone serving the proposed development before each phase is begun; or”

NOTE: Subparagraph d. of the County Attorney’s proposal is eliminated.

Page 70-3, Section 70.5.2.i(1) – Change to read:

“(1) Schools to be attended by the projected student population of the project, based upon attendance zones or service areas as established by the Board of County Commissioners, and existing enrollments at those schools; and”

Staff will prepare an Ordinance adopting the changes approved by the Commissioners and establishing a Task Force to monitor the school APF program and to recommend adjustments as necessary. The Task Force will be appointed by the County Commissioners. The Ordinance will be provided by staff for the March 24th County Commissioners’ meeting.

ADJOURNMENT

Commissioner Dement moved, seconded by Commissioner Raley, to adjourn the meeting at 3:50 p.m. Motion carried.

Minutes Approved by the

Board of County Commissioners on _____

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