

ST. MARY'S COUNTY

BOARD OF COUNTY COMMISSIONERS' MEETING

Governmental Center

Tuesday, August 26, 2003

Present: Commissioner President Thomas F. McKay

Commissioner Kenneth R. Dement

Commissioner Lawrence D. Jarboe

Commissioner Thomas A. Mattingly, Sr.

Commissioner Daniel H. Raley

George G. Forrest, County Administrator

Eleanor Abell, Administrative Assistant to BOCC (Recorder)

CALL TO ORDER

The meeting was called to order at 9:12 a.m.

APPROVAL OF CHECK REGISTER

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

APPROVAL OF MINUTES

Commissioner Mattingly moved, seconded by Commissioner Dement, to approve the minutes of the Commissioners' meeting of Tuesday, August 19, 2003. Motion carried.

SUPPLEMENTAL APPROPRIATION HEARINGS

The Public Hearing was opened and closed at 9:17 a.m. The purpose of the public hearings was to incorporate revenues and related expenditures in the 2004 budget. Advertisement was placed in The Enterprise on August 15th and 22nd.

a) EMERGENCY MANAGEMENT AGENCY

The Public Hearing was to consider a supplemental appropriation in the amount of \$60,000 in Federal Department of Homeland Security Office of Domestic Preparedness – State Homeland Security Grant Program funds, which are to be distributed through the Maryland Emergency Management Agency. These funds will be used principally for the hiring of supplemental staff. The Emergency Management Agency will return before the BOCC on September 9, 2003, for final approval. The record will remain open for 10 days.

b) OFFICE OF COMMUNITY SERVICES

The Public hearing was to consider a supplemental appropriation in the amount of \$500 for a contribution/donation received from the Patuxent River Naval Air Museum. These funds will be used to transport SOSAR campers to the museum as a field trip. The Office of Community Services will return before the BOCC on September 9, 2003, for final approval. The record will remain open for 10 days.

COUNTY ADMINISTRATOR ITEMS

1. Draft Agendas: September 2 and 9, 2003
2. **Commissioner Mattingly moved, seconded by Commissioner Dement, to sign letter to the St. Mary's County Board of Education approving a categorical budget transfer to the General Fund Budget FY03 (\$524,024). Motion carried.**
3. **(a) Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President to sign FY04 contractual agreement between MDE and Board of County Commissioners regarding supplemental monitoring of sewage sludge activities in SMC. Motion carried.**
- (b) Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President to sign agreement between SMC Board of County Commissioners and SMC Health Department regarding supplemental monitoring of sewage sludge activities in SMC. Motion carried.**
- (c) Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President to sign Budget Amendment allocating the unallocated grant reserve funds for FY04 sewage sludge costs (\$23,174). Motion carried.**
4. **Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize Commissioner President to sign the Memorandum of Agreement between MEMA and SMC for the FY03 State Homeland Security Equipment Grant Phase II and Budget Amendment increasing amount for Phase II and decreasing the amount for Phase III (\$120,104). Commissioner Raley was opposed to the vote, motion carried.**
5. **Commissioner Mattingly moved, seconded by Commissioner Raley, to approve and authorize Commissioner President to sign Budget Amendment realigning a position from Administration Division to Building Services Division (\$37,286). Commissioner Jarboe voted against the action, motion carried.**

The Commissioners requested additional information and background on this position.

6. (a) Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President to sign FY 03 and FY04 MOU's between SMC Office on Aging and St. Mary's Home for the Elderly. Motion carried.

(b) Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner President to sign Agreement between Antitrust Division of the Attorney General's Office and SMC Office on Aging, Garvey Senior Center, and related Budget Amendment (\$7,500). Motion carried.

7. (a) Commissioner Jarboe moved, seconded by Commissioner Mattingly, to approve and sign letter to the U.S. Census Bureau challenging the '00 Census. Motion carried.

The Commissioners requested that we send this information to Congressman Hoyer and our Senators and Representatives so they can be aware of the results and assist with the contesting process.

(b) Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and sign Resolution to set the effective date of September 26, 2003, for Ordinance No. Z-03-04 repealing Section 38.2 of the SMC Comprehensive Zoning Ordinance under Ord. 90-11. Motion carried.

8. Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize Commissioner President to sign three Budget Amendments: (1) to correct FY04 funding for Forest Landing (\$100,000); (2) to correct FY04 funding for Piney Point Public Landing; and to place funds in the Capital Reserve accounts (\$50,000); and (3) correct FY04 funding for Fox Harbor pier replacement (\$100,000). Motion carried.

9. (a) Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize Commissioner President to sign Budget Amendment (\$759,144) closing out the Airport Development Project and placing funds in the unallocated CIP Grant Reserve. Motion carried.

Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize Commissioner President to sign Budget Amendment closing out the Commuter Air Service Project and placing funds in the unallocated CIP Grant Reserve (\$484,650). Motion carried.

- a. **Commissioner Raley moved, seconded by Commissioner Dement, to authorize Commissioner President to sign Airport Comprehensive Environmental Study (Assessment) Grant Offer (Fed-\$405,900; State-\$22,550; County-\$22,550) and sign letter of transmittal to FAA. Motion carried.**

(c) Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize Commissioner President to sign Budget Amendment to establish the Environmental Assessment as a stand alone project (\$451,000). Motion carried.

(d) Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner President to sign Budget Amendment establishing required level of funding to cover expenses associated with the Landfill Closure of Cells 3&5. Motion carried.

Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and sign Resolution authorizing SMC to enter into the Maryland Water Quality Revolving Loan Fund for possible funding of St. Andrews Landfill Closure, Cells 3 and 5. Motion carried.

Commissioner Dement moved, seconded by Commissioner Jarboe, to authorize the Contracting Officer to award the construction contract for St. Andrews Landfill Closure as recommended. Motion carried.

- 10. Commissioner Mattingly moved, seconded by Commissioner Raley, for Commissioner President to sign Intergovernmental Agreement between Prince George's County Government and the St. Mary's County Government for Detoxification Services and Short Term Residential Treatment to Substance Abusers Residing in P.G. County.**

Commissioner Mattingly moved, seconded by Commissioner Raley to table the motion

until additional information is obtained, agreements from other jurisdictions, to address the insurance liability concerns of the Board by Dr. O'Brien. Motion carried.

Additional information was requested by the BOCC to have Walden Sierra to provide copies of agreements with other counties to address liability concerns.

WALDEN SIERRA ANNUAL REPORT

- Present: Dr. Kathleen O'Brien, Director

Mr. Gary Lynch

The July, 2003 Walden Sierra, Inc. Report to the Community was presented to the Commissioners. Walden Sierra, Inc. was established in 1973 to provide comprehensive substance abuse treatment and prevention services, hotline/crisis intervention, and counseling support services to citizens of St. Mary's County. Originally a small alternative service program, Walden has grown to a nationally recognized agency retaining the original commitment to identifying underserved populations and developing a variety of innovative and cost effective programs which meet special needs. Walden's goal for 2004 is to diversify their funding in continuing to develop a comprehensive continuum of substance abuse and behavioral health services through their mission "to improve the quality of mind and spirit of the community." Walden Sierra, Inc. is a not-for-profit behavioral health agency accredited by the Council on Accreditation and licensed by the State of Maryland's Department of Health and Mental Hygiene and the Department of Human Resources.

Walden Sierra will be returning to meet with the Commissioners in September for National Recovery Month.

MARYLAND TRANSIT ADMINISTRATION PRESENTATION

- Present: Mr. Henry Kay, Director of Planning
Mr. Ernest Baisden, Chief Project Development
Ms. Mary Anne Polkiewicz, Project Manager
Mr. Jim Renaud, JMT Consulting Senior Associate

The Maryland Transit Administration and JMT Consulting presented an overview of the status of Charlotte Hall Park and Ride and New Market Park and Ride projects. The purpose of the project is to provide additional parking capacity in a permanent facility and to allow for future expansion of the area's commuter bus service due to significant growth, overcrowding, user demand, and current temporary lease of present site. Information was presented on the site selection process, parcel descriptions and details, environmental considerations, site concept plans, site access, and traffic analysis. MTA noted County and public meetings that took place and discussions and citizen concerns from those meetings. Estimated project costs were discussed along with next steps and an implementation schedule.

Commissioner Jarboe presented MTA with a proposal from the Golden Beach Civic Association to be included in the investigative process. MTA will review the material and provide comments. MTA will send new information on the proposed New Market site before the design phase and obtain input from the BOCC as to what the County wants.

EXECUTIVE SESSIONS

Commissioner Dement moved, seconded by Commissioner Jarboe, to meet in Executive Session to discuss a Litigation matter, Alfred A. Lacer vs. St. Mary's County, as provided for in Article 24, Section 4-210(a)8. Motion carried.

Commissioner Dement moved, seconded by Commissioner Raley, to meet in Executive Session to discuss matters of Personnel for Boards and Committees, as provided for in Article 24, Section 4-210(a)1. Motion carried.

Litigation

Present: Commissioner President Thomas F. McKay

Commissioner Kenneth R. Dement

Commissioner Lawrence D. Jarboe

Commissioner Thomas A. Mattingly

Commissioner Daniel H. Raley

George G. Forrest, County Administrator

John Norris, County Attorney

Richard Colaresi, Esq.

Mark Swerdlin, Esq.

Donna Gebicke, Recorder

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

Time Held: 1:10 p.m. – 1:50 p.m.

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

Personnel

Present: Commissioner President Thomas F. McKay

Commissioner Kenneth R. Dement

Commissioner Lawrence D. Jarboe

Commissioner Thomas A. Mattingly

Commissioner Daniel H. Raley

George G. Forrest, County Administrator

Delores Lacey, Boards and Committees Secretary

Donna Gebicke, Recorder

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

Time Held: 1:54 p.m. – 1:59 p.m.

Action Taken: The Commissioners discussed boards and committees and gave direction to staff.

ACTION FROM EXECUTIVE SESSION

Commissioner Jarboe moved, seconded by Commissioner Dement, to authorize staff to proceed as discussed in Executive Session in "Lacer vs. Board of County Commissioners," to include authorization to pursue an appeal if necessary. Motion carried.

PUBLIC HEARINGS

ZONING MAP AMENDMENTS REGARDING CLUB PROPERTIES & DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT REGARDING CLUB PROPERTIES

(The following minutes were recorded and transcribed by Peggy Childs, Land Use and Growth Management Department)

All Commissioners were present. LUGM staff present were Denis Canavan, Director; Jeffrey Jackman, Senior Planner; Phil Shire, Planner IV, and Peggy Childs, Recording Secretary. County Attorney John B. Norris, III was also present.

CLUB PROPERTIES (LEXINGTON MANOR) ZONING MAP AMENDMENT

Requesting the rezoning of the southern portion of this property from OBP (Office and Business Park) to DMX (Downtown Mixed Use). The property to be rezoned is 50.55 acres of the 85.10 acre tract and is located on the west side of MD 235 in Lexington Park; Tax Maps 43/51, Blocks 23/24 and 5/6, Parcel 258.

Legal Ad published in The Enterprise on 8/8/03 & 8/15/03

#A-1 Certified Receipts of notification to contiguous property owners

Property posted by LUGM staff on 8/12/03

This is a request by Club Properties to rezone the 50.55-acre southern portion of the Lexington Manor ("Flat Tops") property from OBP to DMX, the same as the northern portion of the property. After holding a public hearing on April 14, 2003, the Planning Commission found it was a mistake not to include both portions of the property in the same zoning category and recommended approval of the rezoning by a vote of 5-2. Mr. Jackman said the mistake was a drafting error carried over from prior to 1990, when housing was allowed in an Industrial zone.

Commissioner McKay opened the hearing to public comment.

Lou Grasso, of 45330 Mill Cove Harbor Road in Myrtle Point, representing Club Properties, corrected the acreage to be rezoned from the 55 acres described by staff to 50.55 acres. Mr. Canavan said the subject acreage is part of a larger parcel and the legal ad was for 55 acres, so there is no attempt to rezone more than what was advertised, and as soon as we get into the development of the property we will know precisely what the acreage is.

There were no further comments. Commissioner McKay closed the public hearing, leaving the record open for 10 days for written comment.

CLUB PROPERTIES (LEXINGTON MANOR)

DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT

Requesting approval of an Agreement proposed by Club Properties, Inc. for the mixed-use commercial and residential redevelopment of Lexington Manor ("Flat Tops").

Legal Ad published on 8/8/03 & 8/15/03

#A-1 Certified Receipts of notification to contiguous property owners

Property posted by LUGM staff on 8/12/03

This is the first Development Rights & Responsibilities Agreement proposed in the County, following the adoption of the Comprehensive Zoning Ordinance. The Planning Commission conducted a public hearing on April 14, 2003 and, on June 9, 2003, voted to recommend approval, subject to the condition that at least one of the existing duplex units be preserved for historical reasons. Staff states that the plan is consistent with applicable development regulations and the Comprehensive Plan, and meets the requirements of Chapter 29 of the Ordinance.

Mr. Mattingly asked if it is correct that the plan is only a concept at this time? Mr. Shire said it is more of a sketch plan, typical of something we see at a pre-application meeting. Mr. Mattingly noted that the proposal will locate additional stormwater management facilities on Federal Government property, and said he hopes that will be addressed when they develop their true concept. He said the County leases that park property, it does not own it, and he doesn't think we should be removing recreational features of the park to accommodate stormwater management for this development project, when it begins to take shape.

Commissioner Raley asked who will pay to preserve the duplex units for historic purposes and whether the Tulagi Place connection to Willows Road has been changed from Tulagi Place to Lei Drive? Mr. Shire replied that the preservation is a recommendation and the details have not been worked out. Mr. Canavan said that is partly addressed in Section 4.3 on Page 7, and would have to be worked out within a year's time following adoption of the Agreement. Regarding Mr. Raley's second question, it is true that the Tulagi Place extension has been relocated to Lei Drive. Commissioner Mattingly asked if the Agreement ties us to this design, say, if someone else came in and purchased the property? Mr. Canavan responded that the owner would have an opportunity to modify the Agreement; it just sets limitations as to what would be contained. Commissioner Raley asked, on Page 9, Section 4.10, if the owner did not want to wait for the County, could he do the road improvements, bill the County and be reimbursed as the County's finances allow? County Attorney John Norris replied that he could, with that caveat, as the County's finances allow. Mr. Canavan pointed out that is the last sentence in that same section.

Commissioner McKay opened the hearing to public comment.

Teri Wilson, Preservation Planner for the Department of Land Use & Growth Management and on behalf of the Historic Preservation Commission, strongly urged the Commissioners to make the preservation of one or two units part of the Agreement. She said St. Mary's history is closely tied to the Naval Warfare Center and that should be recognized and commemorated. She quoted a report from previous Preservation Planner Elizabeth Hughes, stating in 1994 the Naval Air Station was declared to be a World War II commemorative community by the Secretary of Defense because of the important role it played in the war effort, but the Lexington Park Survey District, which is the Flat Tops, has received no such commemoration. She said the preservation of some

of the buildings should be a priority, complimentary to the redevelopment of Tulagi Place. Ms. Wilson said the buildings were designed by the internationally recognized architectural firm of Kahn & Jacobs, and are examples of the first planned subdivision in the County.

Mr. Raley asked what is the advantage of preserving the units as opposed to photographing and recording them and allowing them to be demolished? Ms. Wilson said Kahn & Jacobs designed buildings like this all over the United States on military bases, but most of them are already gone and these are the last surviving examples. She said we have recorded and documented the buildings, but if the buildings were adaptively re-used for a purpose to provide income to the owner it would remind us of the history of the area and provide economic gain.

Commissioner Jarboe spoke of his visit to an Air Force Base in Okinawa, Japan, where the same type of architecture was constructed but was required to be maintained by the Air Force personnel tenants. He said going onto that Air Force Base gave him the chance to see what Lexington Park could have looked like if they had been maintained, and it was beautiful. He suggested maybe Habitat for Humanity or even Christmas in April might be interested in such a project.

Lou Grasso, representing Club Properties, who has been involved with this project for 5 years, said he became involved with the property because he bought into the Tulagi Place Master Plan, and they have come with a concept that will benefit all the "parties in interest;" i.e., the County, the Navy, the tenants, and the owners. He said the Agreement meets the requirements of Articles 3 and 4 the Comprehensive Plan and the facilitates the visions of the Tulagi Place Master Plan by revitalizing Tulagi Place as the core of its central focus. Mr. Grasso said it will alleviate traffic outside the Main Gate by extending Lei Drive from the rear access of Frank Knox to a new traffic circle and out to Willows Road; it satisfies the objective of connecting various neighborhoods and will eliminate the blight of the existing residential by assuring quality development; it will correct the visual intrusion to the Naval Air Station and provide access to upscale-type shops.

Mr. Grasso said he wants to create a sense of place in Lexington Park and he thinks, with this main street concept, that's exactly what they've done. He said one of the most important things they've created is a valuable enhancement to the County's tax base. The Plan conforms to the County's requirements as well as the AICUZ restrictions and is a perfect example of a good start of the first DRRA in the County.

Mr. Grasso said one of the collateral things that has happened in this process has been that we've all begun a serious focus on affordable housing in the County, and he is pleased that, in some way, they have created a methodology of addressing this issue. He said for years Club Properties has attempted to address the decaying conditions there and now we have come to a conclusion that will resolve the predicament of what to do with the nonconforming property. The commercial concept on the 38+ acres will contain 375,000 square feet of commercial space in two mixes – 50% will be offices and 50% will be retail. Of the 50% retail, 25% will be accessory retail and 25% will be general retail.

Referring to Page 12, Section 7.9, Commissioner Raley asked if the County will be asked to convey its 1.29 acre parcel next to the Lexington Park Post Office to facilitate the connection of Lei Drive to Willows Road, and if the County will be expected to pay for construction of the road? Ms. Finnacom said her understanding is that the County will receive the residential roads, but Lei Drive Extended will remain private except for the portion described as public by Mr. Grasso. She said there is nothing in the Agreement that suggests that the conveyance of the land will offset the cost to construct the road; the road construction is a part of the infrastructure the County had planned to put in place there. Ms. Finnacom said the developer may advance the cost of constructing the road and seek reimbursement, if County funds are available, but there is no quid pro quo between the conveyance of the 1.29 acres and the road construction under the Agreement as written.

Clare Whitbeck, of Leonardtown, referenced Page 9, Article 5, that a tenant may not be removed unless the unit has been replaced by County or the property owner with a comparable unit. She said folks living in Lexington Manor with Section 8 housing vouchers are having their houses condemned and there is no alternative housing for them. She urged the County to pursue an arrangement with Mr. Grasso to maintain the livability level so the properties can continue to be available for Section 8 tenants or until an alternative property can be found.

Commissioner Raley noted the statement in the Planning commission that a portion of the retail will be big box stores, and asked if we have a definition of big box? Staff will research the question but Mr. Shire said he doesn't think the County has a definition of "big box stores." Mr. Canavan called attention to Page 6, Section 3.3.3 but noted that "big boxes" are not mentioned.

Commissioner McKay closed the public hearing, leaving the record open for 10 days for written comment.

For the record, a transcript of Mr. Grasso's comment regarding "big box stores" is attached to these minutes.

COUNTY COMMISSIONERS' TIME

Commissioner Mattingly

- Attended a picnic sponsored by DSS to discuss challenges of foster care in St. Mary's County and to recognize the Geist family for their contributions to a foster care child.
- Attended Mary Wood's retirement from St. Mary's County Libraries at the new Lexington Park Library.
- Congratulations to the Board of Education on the first day of school going well.

Commissioner Jarboe

- Mentioned having the Convenience Centers around the County open later for Daylight Savings Time.

Commissioner Raley

- Mentioned the St. Peter Claver Church having an upcoming Labor Day Festival.
- Mentioned the Southern Maryland College Fair on September 16th.
- Complemented the Board of Education staff and Carver Elementary School staff on the first day of school going well.
- Shared the SAT results from the Board of Education news release and sent congratulations to staff, students, and parents of Great Mills High School on a 44% improvement from last year and a 102 point improvement over a 3-year period.

Commissioner Dement

- Attended Governor and Mrs. Erlich's reception in Annapolis on Monday with the Commissioners and had a wonderful time.

Commissioner President McKay

- Concurred with Commissioner Raley on the SAT scores and requested the principal of Great Mills, Linda Lymus and staff be recognized at an upcoming board meeting.

- Complemented the Board of Education on the first day of school and Hollywood Elementary School staff on a job well done.
- Mentioned the Nicolet Park ribbon cutting for the new Skate Park at 10:30 a.m. on Saturday, August 30th.
- Stated that September 1st was the Labor Day Holiday and County Government offices would be closed.
- Thanked Maryland Secretary Victor Hoskins for visiting St. Mary's County and talking with citizens and staff about housing issues and Lexington Manor at the Jarboe Center.

ADJOURNMENT

The meeting adjourned at 3:10 p.m.

Minutes Approved by the

Board of County Commissioners on _____

Donna Gebicke, Administrative Assistant

to the Board of County Commissioners

EXCERPT FROM PLANNING COMMISSION TAPE

April 14, 2003

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Lou Grasso: We have designated each of these components by a certain name. This one we call the commercial component; this one we call the residential component. The features of the commercial component is that the agreement is that it's 375,000 square feet of mixed-use space. 50% of that will be offices. 50% of that will be retail, but that will be divided in half - 25% to what we call accessory retail, which is like you see in the old-fashioned towns in America, like you see on A Street NE, where there's something

upstairs like offices or apartments, and in this instance, because AICUZ are not allowed in the apartments, they will be offices and in the lower level they will be smaller stores, like shoe stores ... hopefully, Ralph Lauren polo if my dreams come true – people of that nature. And in addition to that, the other 25% will be big boxes.

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