

## RRC - Hagerstown

Commission Members Present:

Abba Poliakov, Jim Soltez, Blackie Bowen, Jay Baldwin, Suzy Ganz, Bill Grant, Jim Brady, Henry Guilford

Opening Remarks – Volvo Representative

Co-Chairs - welcoming remarks and recognition of elected officials present

***Frederick County Executive Jan Gardner (Helen Profiter - Director of Economic Development for Frederick County)***

Discussed 5-page report on 265 actions

- short term 90 days or less
- mid-term up to 150 days
- long term more than 150 days

As of July 2015 - all the issues were addressed

Water/Sewer -- certificate of occupancy = required to pay all water/sewer

- allow large projects to pay over 20 years; small projects pay over 10 years.
- lease water? created a flexibility environment

*Bill Grant - any state regs impediments to economic development in Frederick?*

*A: not really*

*Abba Poliakov: can we obtain a copy of 5-page report*

*A: web site - "document center"*

**Terry Baker - Commission President**

Made brief remarks

**Jake Shade**

In WV, it took him less time to acquire land, get building built than it does to get a permit in MD

Dealing with SHA + MDE - biggest hindrances to development

\$10m in new tax base

*Jim Brady - are there Allegany County businesses here today to discuss specifics?*

*Bill Grant - identify specifically what SHA+MDE problems exist and submit written comments to Commission*

\_\_\_\_\_, **representing Don Bowman - Bowman Development Corporation**

Bowman - very active in the development world. 3m ft<sup>2</sup> in Washington/Allegany Co.

Speaker was formerly a county employee handling economic development

Issues faced:

- State Highway Administration - access permit. Time/cost. 4-6 ongoing traffic studies.
- Two years ago, project Sunfish. Still doesn't have access permit. Suggested that developers should be handed out timeline for projects.

*Jim Brady - asked for a comparison between this and with Virginia/WV*

*A: two to four months*

Commented that processes have been getting better under Hogan Adm.

Stormwater / Bio-retention Pond Regulations

- 140,000 sq. ft. \$80,000 grading project. \$206,000 for plants in a \$50,000 sq. ft. pond. no idea what it will cost to maintain

Building Codes - why do we constantly have to upgrade to the latest code? He gave two examples

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- (1) a project in Georgia. They were using the 2006 building code.
- (2) woman in beauty parlor business, they moved her store 20 feet, she had to spend \$2,000 to upgrade. had to go out to get another loan to pay for upgrades, not in her new space yet over six months later

*Jim Brady - did that happen in the recent past?*

*A: yes, 2013-2014. she's not in the space yet bc low cash flow. Dealing with local authorities (not MDE)*

Gave another example: Tree growth. Asked State to cut/trim trees, State said no. Issue had something to do with signage. State didn't work with him.

*Jim Brady - tree trimming. any discussion about what you're trying to achieve?*

*A: it was a discussion they wanted to have, but the discussion wasn't available.  
DNR*

### **Jason Divelbliss - land use attorney**

Time it takes for projects/permitting to get through process.

Accountability. Should be some reasonable compromise on timing. Deadlines for both sides (private/government).

SHA - access permits –

Section 3.4. Who is required to apply for an access permit?

- Only to be used as a guide -- it's become a bright line rule.
- Example: If vehicular traffic changes. Changes in what way? The word "change" is now being used as a bright line rule

Section 6.1. Traffic study requirement.

- ambiguous language – “major” vs. “significant” improvement

One mile policy - traffic study

- Origin of that policy = preparation for study, not a requirement to do one.
- Generally not greater than one mile from access point

- needs to be revisited

Soil Conservation District

- COMAR
- ESC (erosion and sediment control) plan only valid for two years. no provision for projects under construction
- Runs afoul of "law of vested rights".
- parallel two year "sunsets" would be easier to work with
- Result: development has to go through a two year update, has been interpreted as a review, or go through the process again.

*Bill Grant - expand on law of vested rights.*

*A: common law says you have right to complete project. end up with a back-and-forth. trepidation betw. developer, state, bank*

*Blackie Bowen - have things changed since new Administration?*

*A: yes, better*

*Jim Brady - exists these guidelines created by engineering access permits division that overtake laws and formal regs that exist ... how did these things/guidelines develop? is there any process to go through that?*

*A: ambiguity in the statute/ordinance, the answer is to adopt an amendment in a more direct and expedient way. adopt policy/guideline. need to decide which way to go: either draft specific, or be careful about interpretation. two identified - easily sharpened*

*Jim Soltez - 3rd speaker in three jurisdictions to bring up these specific issues.*

*Secretary Rahn extremely aware of these issues (access permit)*

*Abba Poliakov - this is exactly the type of specifics that are helpful.*

**Christopher Smith - Home Builders**

Build exact same home in WV, MD. \$35,000 more to build in Maryland than WV.

2012 building code (vs 2009 code). All plans have to be redesigned for 2x6 walls (vs 2x4 walls). Clients don't see the value in this. Additional cost is a game changer.

Sprinkler rules: if there's any way to relax the way it's enforced. discussed well/septic. Tank required. Additional costs are burdensome.

Berkley County, WV +30%, new home starts up

Washington County, MD -20%, new home starts down

\*\*don't need to adopt codes every 3 years.

*Jim Brady - is that a state requirement (sprinklers)?*

*Blackie Bowen - asked if he could provide a line item of \$35k*

*Bill Grant - how much more for sprinklers?*

*A: \$5,000 additional cost (pump)*

*Jim Soltez - requires legislative action*

- *at grade crossing at all railroad tracks*
- *federal issue?*

*Bill Grant - federal issue?*

**Paul Crampton - local small builder**

Energy Code - big game changer for economy of cost

SHA - been a huge issue for them. Traffic study, understands the need, discussed all the reputable companies that conduct them. State required six revisions to traffic study. Developers can't budget for that.

MOSH - inspectors come in with an attitude. Jobs get shut down immediately. Would like to work along with inspector, as opposed to MOSH inspectors working against them

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**Dave Briggs - operations manager for Jamison Doors**

Company has been in business for 110 yrs. Employs 35 employees

Spent \$5m to get two facilities online.

MDE:

2/12/15 - hire 3rd party environmental engineer to file for a permit to construct a gel coat spray booth. Fiberglass coating. Facility with 10 people. Booth does not run 24 hours a day. Took 4 months to get the permit.

8/26/15 - Fire Marshal entered business, unannounced. Immediately issued cease work order. Took 30 minutes to move materials to a storage facility (business inoperable during this time). Ventilation system was shut off, but not required to be in operation.

State Fire Marshal wanted ventilation system to be on a timer, unmanned, didn't want a person to be able to turn it off. Required it to be operating from 6am-8pm, but they were only running the booth from 7am-3:30pm.

State demands PE stamped letter for ventilation system. Shut down 2-1/2 days, state not willing to work with them.

Suggestion for State Fire Marshall.

- Don't come in heavy handed, allow us to fix it and move on.

**Terry King - Bridge of Life Church, Greater Hagerstown Committee member**

- State Fire Marshal - rejected recommendations, made unreasonable recommendations, cited a part of the code, bottom line - State Fire Marshal said "this is my decision, you must abide" without an explanation.
- seemed arbitrary

*Abba Poliakov - pointed out that comments can be made anonymously through the web site, and Commission will not publish the author of the comment.*

--break--

Public Comment Portion

***Delegate Neil Parrott***

- Walmart took two years to approve project

*Jim Brady -- why did it take that long.*

*A: bureaucracy, kicking the can down the road. SHA often blames engineer or traffic study company. nitpicking small errors.*

- 17 comments, 15 were bureaucratic, 1 was substantive
- Example: West Virginia. rebuilding an older restaurant. Met with a decision maker (engineer) in WV -- add a deceleration lane. SHA would have taken a year and a half. Submitted 5-6 traffic impact studies, reach the same answer.
- Need deadlines.

MOSH

- Attitude of not coming in to punish business with intent to come in and issue fines.

***Douglas Vittenger(sp?)***

Small business owner, Allegany County

- minimum wage - not fair
- overreaching from state agencies. MOSH – he was cited for several different things, serious violations, should never have been a violation, agent failed to acknowledge safety plan, was thrown out.
- MOSH inspector cited him for table saws, chop saws, things that weren't on job site (just had a cordless drill)
- State Fire Marshal - delayed him considerable time/expense
- Sprinklers - afraid to publicly come to speak about these items. Doesn't want retaliatory effect against him.
- LLC fee \$300

**Sassan Shanool**

- Discussed Walmart expansion Walmart: one of the most expensive Walmart stores in the country (to build).
- MDE. Issue with tire dumping that they weren't aware of, MDE self-funded (because of fines and penalties?)
- WV. Outsourced review process = more efficient. Need better accountability.
- Sprinklers: single families should be able to opt out if a certain distance away from another home.

*Blackie Bowen - comments*

*Jim Brady - comments*

**Tom Ferlman - Booz Allen Hamilton**

Provided anecdotal stories

- Mort, legal immigrant who owns a restaurant. Wanted to install windows. Can't afford to do it because of permits and regs.

**Eric Guthrie - resident of Garrett County. Beitzel Corporation**

- 525 employees
- 2013 - Engineers Firm Permits - Required to name a managing agent -- construction company that provides engineering services
- Required to sign an affidavit - putting the responsibility on an agent that's not an owner of the company

Sprinklers: will add \$10k-\$15k to price of home ... can go to WV for a lot less

*Bill Grant - one of the best companies in Garrett County. We want to do everything we can to keep them in business and thriving.*

*Abba Poliakov - comments on firm permits*

**Linda Kling – resident of Garrett County**

Owns a historic dairy barn 100 years old, made improvements.

August 17 - Monday morning, State Fire Marshal shows up, advises her she needed to go from agriculture to use and occupancy, and issued cease of use. They had their daughter's reception in 5 days. did not give a timeframe or offer assistance. He showed up at the wedding as a guest the prior Saturday. Wanted fire walls, sprinkler systems, egress doors.

She called a meeting with State Fire Marshal, local permit authority, Delegate Beitzel, Senator Edwards. Because of these issues, she had to cancel all October/November weddings.

Spoke with Bill Grant, Secretary Gill...

She feels there's an inconsistent application of rules/regs -- other barns in area, operating publicly

*Jim Brady - Fire Marshall. Asked if she knows what caused him to show up?*

*A: he was a guest at the prior wedding.*

*Suzu Ganz - what are you waiting for?*

*A: Ms. Kling listed permits she's waiting on.*

**Mike Bowersox**

Licensed sprinkler contractor.

MOSH - redundant in Maryland we can eliminate. Delegate looking to do that.

Reduce fines by 90%

Workers Compensation Board. 1% chance compensable, employee gets awarded.

Prevailing Wage. Should be abolished.

*Jim Brady - if you have an issue with the State Fire Marshal, how do you appeal?*

*A: AHJ - authorities have jurisdiction.*

**Senator Serafini**

- Building codes (Legislation - Washington County pilot program - ability to opt out of parts of building code).
- MOSH

*Abba Poliakov - asked him to send copy of those two bills.*

*Jim Brady - perfect example of how we're in the punitive business, not business friendly*

**Dave Pulford - Howard County, Maryland Mobile Food Vending Association**

Process for getting approved to have a food truck (Howard County). Health Department, inspection, peddler's license, state tax license, \$1,000 per county in fees.

He works in 3 jurisdictions - spends \$3,000 per year to stay on the road.

He runs the food trucks on his own.

A lot of redundancy -- his path to getting approved.

- 14 days
- 10 days to review
- went to Baltimore City (submitted the same info)
- went to Montgomery County (submitted the same info) approved truck in 3 hours
- Howard County still hasn't looked at plan...
- took seven weeks to go through approval process -- rebuttal: don't have employee lockers; needed to provide proof that truck is rodent proof;

Inconsistencies between health departments - 27 different interpretations for one law...

Proximity restrictions: Baltimore City - needs to be 300' away from a restaurant

Suggestion: (health department employees): empower those employees to approve.

Discussed restrictions to use of Maryland state roads: cannot sell his product on Maryland state road. Only people who can, people who sell flowers or Maryland blue crabs. He thinks food truck operators should be able to operate on state roads

*Jim Soltez - asked if he could send a copy of the regulations for flowers/crabs*

***Joel Rinseberger***

Builder - Frederick County (dozen homes per year)

Soil Conservation District - storm water management law - build on small lot, disturb more than 5,000ft<sup>2</sup>, triggers requirement for major grading, takes from 30 day permit to 110 day permit.

- making more difficult - small lot infill development
- 110 day permit - wide range of impact = triggers need to refinance in the middle of a project.
- Takes 55 subcontractors to build a house, smaller builders tend to employ mostly local workers ... irregularity of work flow = trickledown effect to other small businesses
- Goal: delegated authority for Frederick County reviewers from Soil Conservation District, so they may sign off on 10,000 ft<sup>2</sup> lots, take that burden off the local Soil Conservation Districts. Should have new construction reviewers looking at new construction

***Fred Frederick - president of a development firm***

- SHA - access permits. Putting decisions back in the hands of district engineers has shown improvement.
- ePermitting - saves time, \$
- MDE - permits only good for two years, needs to be extended. MDE permit good for two years, site plan good for three -- need to coincide.
  - SB 236 - septic bill - slow/stop growth, devalues agricultural land (getting loans for building, etc.) ... limits developments to 7 perc tests

***Anne Bristow – resident of Garrett County***

- advocate for public health
- much of the comments due to staffing issues

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- Spector Energy - contributes most to tax base - up for Title V air quality review
- Discussed benefits of storm water pond brought up earlier.
- Addressed Mr. Bowman's comments on barriers to building and economic benefits
- Create Ombudsman

*Jim Brady - asked if her comments mean her position is that Maryland is a business friendly state, that if the perception is false.*

*A: no, that's not her position - she advocates for striking a balance.*

\_\_\_\_\_ **???? Works for a Modular Home Building Company**

COMAR 02.05.04

Consistently and regularly ranks as worst state to do business (will send more details)

Discussed multiple layer of plan review

23 steps in process before getting to building site

- Eliminate duplicate steps that can be eliminated.

Sprinklers

- not allowed to opt out of process (modular homes)

Building Codes

- Maryland is currently on 2015 IRC/IBC
- most states two or three code versions behind Maryland
- Energy Code = very high hurdle to clear, very costly
- Maryland = strictest codes in country, most energy efficient, also very costly
- Hit the "pause button" on the 2015 code, update in 2018
- far ahead of the country on energy conservation codes

*Jim Soltez - asked if he can email copy of COMAR Regulations he cited; asked if he could send the steps to get approval for modular homes*

***Elizabeth Hoffman - Howard County***

Stance of this commission, perceives regulations as job killers. Regulations aren't job killers. Overall it's a wash. Most Marylanders aren't business owners. Remind you that regulations keep people safe, doesn't want to see a race to the bottom on wages, companies attracted to Maryland.

*Blackie Bowen - we don't want to see changes that would do harm.*

***Josh Marguilles***

Custom Home Builder. He's been shut down because of Regs:

- BAT Septic \$25,000
- Forest Conservation
- Impact Fees
- Sprinkler Systems - \$8,000 added cost to home
- Retention Ponds

Can't build a home in Maryland.

***Timbe Day***

Every county has different requirements, logistical nightmare.

Went to Harford County to apply for her Real Estate Salesperson license, was told she could not get license because of continuing education requirements

New hire directory - registry form. Every three months.

***Washington County EDC***

Discussed energy code

Discussed highway project issues

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Premium outlets - needs highway infrastructure improvements

Energy code - adoption of energy code too quick

- Cost \$4,000 just to buy the books, had to purchase summary of significant changes.
- Too late to make any changes to energy code
- Wants locals to be able to amend energy code

**Scott \_\_\_\_\_**

General Permit - more efficient

***Tim Lung - planning review section chief in Washington County***

MDE: regulations regarding non-tidal wetlands and wetlands permits. According to MDE's own guide - fees associated w/ review (range betw. \$300-\$7,000 per acre). Fee for this permit far exceeds cost to review.

*Jim Soltez - asked if he could send info on this permit*

***Angela Smith -***

- Responsible for enforcing building codes. 3 year schedule is very costly. Codes mandated by state. Asking if we can go to code adoption every six years.
- Time taken to approve permits

*Jim Soltez - asked for comments on energy code*

*A: suggested six year adoption cycle*

***Paul Frey - President/CEO of Washington County Chamber of Commerce***

Handed out 2015 legislative agenda

Spoke about dialogue vs. debate

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***Larry Eisenhower - Maryland State Fire Marshal's office***

- Fire code – is a national document
- Uniformly enforced throughout the country
- Spraying issue: codes are pretty clear.
- They have addressed personnel / customer service issues
- Barn: no requirement for sprinklers at this point, addressed other points
- Residential sprinklers: strongly endorses. Cited Prince George's County.

*Jim Brady: where does the Fire Marshal's office fit in Maryland state government*

*A: Department of State Police*

3:38PM adjourned.