

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS**

December 1, 1992

Present: Carl M. Loffler, Jr., President
W. Edward Bailey, Commissioner
Robert T. Jarboe, Commissioner
John G. Lancaster, Commissioner
Barbara R. Thompson, Commissioner
Edward V. Cox, County Administrator
Judith A. Spalding, Recording Secretary

(Commissioner Lancaster was not present at the beginning of the meeting.)

CALL TO ORDER

The meeting was called to order at 9:10 a.m.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Thompson, to approve the minutes of the Commissioners' meeting of Tuesday, November 24, 1992. Motion carried.

APPROVAL OF BILLS

Commissioner Bailey moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the Check Register as presented. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

- 1) **Clearinghouse Project No. MD921027-0965
Technical Review Services for Defense Environmental
Restoration Program**

The County Administrator presented the referenced clearinghouse project recommending that it be forwarded to the State with the comment that it is consistent with this county's plans, programs and objectives.

The Commissioners gave their concurrence.

- 2) **Response Correspondence**

The County Administrator presented the following response correspondence for the Commissioners' review and signatures.

- o To Peter J. Robinson, Cynthia S. Robinson, Doris Hooker, and Jan Loughran regarding the SMECO 230 KV transmission line in the Town Creek area and advising that SMECO will hold a public hearing on December 8 at Town Creek Elementary School.
- o To Potomac River Association regarding preservation of Myrtle Point for public use and stating that the suggestion will be kept in mind during the selection process for property for the higher education facility, community college, and replacement high school.
- o To Captain Pete Latvala, Chesapeake Sport Charters, Inc. regarding the striped bass season cancellation and advising that the concerns will be forwarded to appropriate officials.

The Commissioners agreed to sign and forward the correspondence as presented.

- 3) **Legal Holiday Schedule for 1993**

The County Administrator presented the proposed Legal 1993 Holiday Schedule for St. Mary's County Government. He stated that the County follows the State's schedule and requested the Commissioners' approval of the schedule as presented.

Commissioner Jarboe moved, seconded by Commissioner Bailey, to approve and adopt the Legal Holiday Schedule for 1993 for St. Mary's County Government as presented. Motion carried.

4) **Christmas Eve**

Commissioner Bailey requested that the Commissioners give consideration to allowing a liberal leave policy for Christmas Eve, which is a Thursday. The Board gave its concurrence and requested the County Administrator to prepare correspondence for their signatures wishing the employees a happy holiday season and requesting supervisors to be liberal in the use of leave for their office employees.

5) **Mutual Aid Agreement for Fire Protection/Ambulance Service
(Calvert County)**

The County Administrator presented the referenced Mutual Aid Agreement for Fire Protection and Ambulance Service between Calvert and St. Mary's County. He pointed out that the Agreement is identical with the Agreement the County has with Charles County. County Administrator Cox indicated that St. Mary's and Calvert have had an agreement in practice, but that the document formalizes the agreement.

Commissioner Jarboe moved, seconded by Commissioner Thompson, to approve and authorize Commissioner Loffler to sign the Mutual Aid Agreement as presented. Motion carried.

6) **Appointments
Boards, Committees, Commissions**

Commissioner Jarboe moved, seconded by Commissioner Thompson, and motion carried, to appoint the following individuals with terms as indicated:

<u>ADULT PUBLIC GUARDIANSHIP REVIEW BOARD</u>	<u>TERMS TO EXPIRE</u>
Eugene Carter - REAPPOINTMENT	12/31/95
<u>COASTAL RESOURCE ADVISORY COMMITTEE</u>	
Robert F. Chapman - REAPPOINTMENT	12/31/94
Janice Berry-Chen - REAPPOINTMENT	12/31/94
<u>COMMISSION FOR THE DISABLED</u>	
Lydia D. Chagnon - REAPPOINTMENT	12/31/96
<u>COMMUNITY DEVELOPMENT BLOCK GRANT ADVISORY COMMITTEE</u>	
Thomas M. Shea - REAPPOINTMENT	12/31/97
<u>ELECTRICAL EXAMINERS BOARD</u>	
John Michael Finch, Sr.	12/31/95
<u>EXTENDED DAY CARE PLANNING COMMITTEE</u>	
Linda Himmelheber - REAPPOINTMENT	12/31/95
Robert L. Hill	12/31/95
Laraine M. Glidden	12/31/95
Jayne E. Sullivan - REAPPOINTMENT	12/31/95
<u>FAMILY ASSISTANCE CENTER ADVISORY COMMITTEE</u>	
Gary Anderson - REAPPOINTMENT	12/31/94
Francis A. Sullivan - REAPPOINTMENT	12/31/94
<u>LIBRARY BOARD OF TRUSTEES</u>	
Lynne Redmond - REAPPOINTMENT	12/31/97
Charles A. Young - REAPPOINTMENT	12/31/97
<u>MENTAL HEALTH AUTHORITY BOARD</u>	
Francis Fenwick - REAPPOINTMENT	12/31/95
<u>PLANNING COMMISSION</u>	
Joseph F. Anderson, III	12/31/97
Shelby P. Guazzo	12/31/97

WICOMICO RECREATION COMPLEX

James B. Beavan, Sr. (REAPPOINTMENT) 12/31/95

ZONING BOARD OF APPEALS

A. Shane Mattingly (REAPPOINTMENT) 12/31/96

(Commissioner Lancaster entered the meeting - 9:25 a.m.)

**7) Budget Amendment No. 93-20
Social Services**

The County Administrator presented the referenced Budget Amendment recommended for approval by the Director of Finance with the following justification: Burial Assistance (\$820).

**8) Resolution No. 92-32
Board of Education Capital Improvement Program
Fiscal Years 1994 - 1999**

Also Present: Ed Fitzgerald, Asst. Superintendent of Adm.
Jerry Himmelheber, Supervisor/School Facilities

As a follow up to previous discussions, the County Administrator presented the referenced Resolution No. 92-32 which commits St. Mary's County to fund certain design, construction, and equipment for school facility costs for St. Mary's Public Schools.

Mr. Fitzgerald and Mr. Himmelheber presented and reviewed the latest CIP Summary which listed projects submitted to the State for FY '94 and succeeding years.

During review of the CIP Commissioner Bailey questioned the state/county ratio for funding which is supposed to be 65/35. He pointed out that this ratio does not appear to be reflected in these documents. Mr. Fitzgerald explained the state's capacity requirements and how it funds at the 65/30 ratio when the state's capacity is met. However, if the county uses less capacity than the state, it must make up the difference.

Commissioner Jarboe questioned the commitment of funding for the proposed new high school to replace Great Mills and indicated that he believed that the Commissioners may want to re-evaluate priorities at a later date.

After discussion Commissioner Lancaster moved, seconded by Commissioner Thompson, to approve and sign Resolution No. 92-32 - Board of Education Six-Year Capital Improvement Program for Fiscal Years 1994 - 1999. Motion carried with Commissioners Loffler, Lancaster, and Thompson voting in favor and Commissioners Bailey and Jarboe abstaining.

9) Maryland Housing Rehabilitation Program

On behalf of the Department of Economic and Community Development, the County Administrator presented a Letter of Intent for the County's participation in the Maryland Housing Rehabilitation Program for Fiscal Year 1993 in the amount of \$13,420. The program will provide low interest loans for housing rehabilitation programs in the county.

Commissioner Thompson moved, seconded by Commissioner Bailey, to approve and authorize Commissioner Loffler to sign the Letter of Intent as presented. Motion carried.

**PROCLAMATION
NATIONAL DRUNK DRIVING PREVENTION MONTH**

The Commissioners issued the referenced Proclamation designating the month of December as National Drunk Driving Prevention Month in St. Mary's County.

**HOLLYWOOD VOLUNTEER FIRE DEPARTMENT
NATIONAL VOLUNTEER FIRE COUNCIL CONFERENCE**

Present: John Gatton, Jr., HVFD
Tom Mattingly, "

The referenced individuals appeared before the Commissioners to announce that the Hollywood Volunteer Fire Department will be hosting the annual National Volunteer Fire Council Conference from September 30 - October 3, 1993 and requested the Commissioners' endorsement and assistance.

Mr. Gatton indicated that endorsement has been received from the St. Mary's County Fire Board and plans are underway for endorsement support from other organizations.

Mr. Gatton advised that there is anticipated to be approximately 200 people from across the country participating in the conference, and there are many activities planned for the four-day event. He pointed out that they would like to show case the County.

After discussion Commissioner Bailey moved, seconded by Commissioner Jarboe, to offer the Commissioners' endorsement of the convention being hosted by the Hollywood Volunteer Fire Department and that staff be directed to prepare a letter of support. Motion carried.

DEPARTMENT OF PLANNING AND ZONING

Present: Jon Grimm, Director
Peggy Childs, Recording Secretary.

APPEAL OF PLANNING COMMISSION DECISION

FSUB #91-0423 - WOODMARK SUBDIVISION

Requesting that density rights from parcels already subdivided and sold in this subdivision be recalculated and allowed to accrue to the remainder of this property for development purposes. The property contains 266 acres, is zoned RPD, and is located on the west side of the MD Route 234/Hurry Road intersection; Tax Map 23, Block 5, Parcel 185.

Present: Buck Lawrence, Owner/Applicant
Jim Kenney, Attorney for Applicant
Herb Redmond, of DH Steffens Co.

Mr. Grimm summarized the debate as whether this subdivision met the County Commissioners' requirements to be grandfathered and processed under the 1978 Ordinance for 1-acre development, before adoption of the 1988 Comprehensive Plan. Staff's position is that it did not. On August 24, 1992 the Planning Commission voted to take no further action on this request and to reject the proposed density calculation as inappropriate to this or any other property in the County. The Commission directed that any appeal to the County Commissioners' established grandfathering policy, which requires Preliminary Plan submission for a project to be processed under the one-acre density, should be made directly to them.

Mr. Kenney stated this is an interpretive issue, as the project has been ongoing for 14 years, since there was a concept approval it was applicant's belief that it was included. However, when they got to the last phase they were told the 3-acre zoning would apply.

Mr. Redmond gave a history of the application, saying in 1978 the Planning Commission reviewed 92 lots but the TEC comments were that a water system and several other improvements be put in which the County felt they could not finance, and the 92 lots were never recorded. The Fowler family then tried to market the project itself and a potential buyer submitted a plan for 155 lots in 1986 under Zoning Permit #86-1819, however the percs could not be obtained and the buyer backed out. The Fowler family then decided to subdivide the property into large tracts and obtain the money to develop the last section, and Sections 1, 2, and 3 were recorded. Now the family would like to develop the last section, as Mr. Redmond said was their intention all along, but they do not have the one-acre zoning to make the project feasible monetarily.

Mr. Redmond said the project was laid out for Frank Gerred and Robin Guyther, former Director and Acting Director of OPZ, and there was an understanding that applicant would come back later with the lot design. Although the lots were recorded, Mr. Redmond said the intent was to reserve the fragments of acreage to use to develop the last section.

The Commissioners examined the 1978 Concept Plan and deferred a decision until their meeting of December 8th. Staff will provide documentation as to what constituted a Preliminary Plan under the Commissioners' guidelines for grandfathering and Mr. Redmond will provide information from the Health Department that perc tests have been applied for and taken on the future section.

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director

1) Option Agreement - Maryland Route 246

Mr. Ichniowski presented an Option Contract with the State Highway Administration in conjunction with the widening of Maryland Route 246 (Great Mills Road) in the amount of \$28,940. He explained the appraisal process by the state, which is similar to the County's and recommended that the Commissioners accept the offer of \$28,940.

After discussion Commissioner Jarboe moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the Option Contract with State Highway Administration as presented. Motion carried.

**2) Addendum to Public Works Agreement
Acceptance of Deed/Road Resolutions**

Mr. Ichniowski presented the following documents for the Commissioners' review and consideration:

Potomac Sands Subdivision, Phase 2

Addendum to the Public Works Agreement entered into between Alan C. Borg and Board of County Commissioners for St. Mary's County extending the deadline for completion of improvements to November 1, 1993. The Addendum is backed by a Letter of Credit with First National Bank of St. Mary's in the amount of \$60,800.

Wildewood Subdivision - Hickory Nut Drive Extension

Deed dated November 24, 1992 between Paragon Builders, Inc. and the Board of County Commissioners for St. Mary's County accepting Hickory Nut Drive Extension into the County Highway Maintenance System.

Road Resolution No. R92-34 posting Hickory Nut Drive at 25 miles per hour.

Road Resolution No. R92-35 designating Hickory Nut Drive as a Stop Street at its intersection with Wildewood Parkway.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Addendum, Deed, and Road Resolutions as presented. Motion carried.

**ST. MARY'S COUNTY HEALTH DEPARTMENT
ALCOHOL ADDICTIONS AND MENTAL HEALTH PROGRAMS**

Present: Dr. William Marek, Health Officer
Ed Mosely, Mental Health
Frances Sullivan, Mental Health
Sharon Bradley, Substance Abuse
Kathy O'Brien, Walden

As a follow up to last week's discussion the referenced individuals appeared before the Commissioners to explain the merging of the Health Department's Alcohol Addictions Program with the Walden/Sierra Drug Program and the conversion of the government run Mental Health Program to a non-profit corporation. Dr. Marek, in November 17 correspondence, had requested the Commissioners' consideration on two issues: the utilization of current space at the health department building and whether the county would transfer the county's allocation to the non-profits.

Mrs. O'Brien explained the Addictions merger with Walden advising that the State had merged the two departments and has been advocating mergers on the local level. She stated a review had been done of personnel, equipment, space, and client services, which was given the highest priority. She indicated that the merger would be beneficial to the clients served by streamlining the system and would result in cost savings to the clients.

Dr. Marek indicated that the program is state funded and that the County funds approximately \$8,700. He pointed out that no new county money is being request and they are not asking the county to pick up state reductions.

With regard to the Mental Health Program, which is 100% state funded, the county allocates \$40,000, and Dr. Marek requested the Commissioners to make a decision whether to leave those funds in the program when it becomes a non-profit. Mr. Mosely pointed out that the program will continue

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to serve the same clients and would not be in competition with the private sector. Mr. Sullivan reported that the monitoring of quality and quantity of services will remain with the health department and the delivery of services would be done by the non-profit organization. He indicated that there will be a more efficient management of dollars.

Discussion ensued regarding the transfer of employees to the non-profit organizations from the state merit system, and Dr. Marek pointed out that there will be protection in the contract agreement for those merit system employees.

After discussion Commissioner Bailey moved, seconded by Commissioner Jarboe, to accept Dr. Marek's recommendations for the balance of Fiscal Year 1993 for the use of county funds, to allow the continued use at no cost of county government-owned space in the Health Department building, and to sign and forward the letter to Dr. Marek setting forth the approvals. Motion carried.

The Commissioners will review and possibly reconsider the referenced approvals during the Fiscal Year 1994 budget development process.

STAFF MEETING

The Commissioners attended the regular monthly staff meeting at the Carter State Office Building.

EXECUTIVE SESSION

Commissioner Bailey moved, seconded by Commissioner Thompson, to meet in Executive Sessions to discuss matters of Litigation (The Skydiving Center), as provided under Article 24, Section 4-210(a)8, and Property Acquisition (Higher Education Facility), as provided under Article 24, Section 4-210(a)11. Motion carried. The sessions were held as follows:

Litigation

Present: All Commissioners

Edward V. Cox, County Administrator
Joseph Densford, County Attorney
Dan Ichniowski, Director, Public Works
Charles Wade, Director of Finance
Chuck Hines, Airport Commission
William "Mac" McGarity, "
Richard Wilson, "
Dave Seeman, "
Sidney Wood, "
Judith Spalding, Recording Secretary

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

Topic : Litigation (The Skydiving Center)

Time Held : 2:45 p.m. - 4:40 p.m.

Action Taken: Reviewed confidential correspondence from Local Government Insurance Trust; requested representatives of the law firm of Hogan and Hartson to meet with the Commissioners and Airport Commission in Executive Session next week.

Property Acquisition

Present: All Commissioners

Edward V. Cox, County Administrator
Joseph Mitchell, Director, Economic & Community Dev.
Charles Wade, Director of Finance
Alek Loker, Technology Council
Judith Spalding, Recording Secretary

Authority: Article 24, Section 4-210(a)11, Maryland Annotated Code

Topic : Property Acquisition (Higher Education Facility)

Time Held : 4:40 p.m. - 5:10 p.m.

Action Taken: A panel will review proposed sites for the facility and Mr. Mitchell will return to the Commissioners next week to identify the top two or three sites with the consultant. There was discussion about the purchase of a site and the handling of state money.

ADJOURNMENT

The meeting adjourned at 5:15 p.m.

7:00 P.M.

PUBLIC FORUM

The Commissioners conducted the regular monthly public forum accepting questions and comments.

Doug Capone (North Town Creek) - Expressed concern regarding the SMECO transmission line; stated he had not received notification; was concerned about destruction of trees, the environment and health. He suggested that the Commissioners request that SMECO stop the construction of the line until impact studies are completed and alternative routes can be developed.

Kurt Sebacher (Town Creek) - Concerned about SMECO transmission line and possible carcinogens and other health problems.

Sam Moyle - Concerned about SMECO transmission line; ecology, property values, health of children in the area. Requested that SMECO stop the work until safe alternatives are developed.

Keith McGuire - Questioned the criteria used by the Board of Appeals in the approval of the Pickett Landfill. He stated that there has been no study of the environment or safety of the project and indicated that the project was of no benefit to the County. Commissioner Loffler explained that the appeal process for the Board of Appeals was through the court system and also that the Maryland Department of Environment should respond to concerns.

Gib Simpson - Expressed concern regarding the SMECO transmission line.

Phil Cartwright - Expressed concern regarding the SMECO transmission line, particularly health problems related to electrical magnetic fields; suggested that there be a re-evaluation.

Linda Duugay - Expressed concern regarding the SMECO transmission line, particularly in relation to health hazards to children.

Harry Harrington (Town Creek) - Concerned about SMECO transmission line not only in the Town Creek area, but also surrounding areas. He stated he was aware when the project started in 1979 but the environmental and health issues were not a concern at that time.

Sarah Moyle (North Town Creek) - Expressed concern about SMECO transmission line, particularly the EMF and its relation to cancer in children. She referenced a Swedish study that identified the hazards of electrical magnetic fields.

Kathlyn Ballard - Expressed opposition to the Pickett Landfill and inquired as to what the Commissioners could do as guardians of the public. Commissioner Loffler explained the Commissioners' role in the project and pointed out protective measures the Board takes through the adoptions of building codes, comprehensive plans, etc.

Viki Volk - Because of the Skydiving suit, violations of open meetings law by not taking minutes, and the suggestion by Potomac River Association regarding the County "fighting" to stay out of court on the grandfathering issue, she inquired whether the Commissioners felt that local government was operating as they thought it should be and was this good government. The Commissioners explained that the County was a defendant in the skydiving matter and that minutes were now being taken in executive sessions. Commissioner Thompson stated that the County makes every effort to operate good government citing examples of the public forums and the commissioners responses to the Environmental Coalition and the Community Preservation Coalition concerns. Commissioner Loffler pointed out that the PRA matter was voted three to two to approve the grandfathering.

Mary Byron (North Town Creek) - Expressed concern about the SMECO transmission line and advised that a petition was being circulated to be presented to SMECO. She stated that it was not just a Town Creek problem but a community problem.

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Frank Lengel - Expressed concern about the SMECO transmission line and stated that he had not been notified that it would be going in.

Joe Carbanaro - Expressed concern about the potential health hazards relative to the SMECO transmission line and that SMECO should use "prudent avoidance."

Wayne Hubbard - Expressed concern about the SMECO transmission line and the health hazards to children.

Lee Byron - Expressed concern about the SMECO transmission line, particularly in conjunction to trees being cut down and about the health of the children in the area.

Linda Wallace - Expressed concern about the SMECO transmission line and liability if there is a law suit.

Nancy Skipper (home health nurse) - Expressed concern about the potential health hazards to children regarding the SMECO transmission line and particularly the effects of EMF. Suggested that there be a moratorium or injunction until more information is gathered.

Pat White - Shared a personal incident wherein she was camping and had her tent under a power line and the DNR patrol told her that she had to move because it was not healthy. She further related that she lives in St. Clements Shores and electrical boxes had been installed causing her house to hum.

Don White - (1) Stated he thought the Pickett Landfill was a mistake and requested the Commissioners' assistance in helping to defeat the landfill; (2) Suggested that the Airport be sold to a private operator. (Commissioner Loffler responded that the airport was a valuable asset to the county.)

Jim Rydell - Expressed concern about the SMECO transmission line and inquired whether the Commissioners had an option to comment on the construction and whether the line could be moved somewhere else.

Joe Greenwell (Resident of Breton Bay) - Advised that Maryland Rock has claimed that the public landing was not on public property; however, it appears that it is not where Maryland Rock says it is. He stated that he would like for the County to make a determination as to the location of the public landing. The Corps of Engineer permit expired in 1982 and Maryland Rock is trying to renew it. He requested that the County request the COE to deny the permit until the location of the public landing can be determined.

Vernon Gray (Chairman, Alliance of Concerned Taxpayers) - (1) Inquired as to the status of ACT's recommendations for improvements to the budget process. Commissioner Loffler responded that the recommendations were recently discussed and staff is looking into the possibility of implementing some of the suggestions. (2) Inquired if the Airport Commission had administered the lease with the Skydivers (the fact that The Skydivers did not have liability insurance), whether there would not be a law suit now. (Commissioner Loffler responded that the County is under federal order that nothing can be done about the skydivers.)

Viki Volk - Inquired whether Commissioner Loffler could confirm or deny that he was being considered by the Republican Party as a candidate for Lt. Governor.

The public forum concluded at 9:05 p.m.

Minutes Approved by Board of
County Commissioners on 12/8/92

Judith L. Spalding
Recording Secretary