

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

January 5, 1993

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

(Commissioner Loffler was not present due to illness.)

CALL TO ORDER

The meeting was called to order at 9:05 a.m.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Thompson, to approve the minutes of the Commissioners' meeting of Tuesday, December 22, 1992. Motion carried.

APPROVAL OF BILLS

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

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) Forest Conservation Regulations - Resolution No. 93-01

Also Present: Jon Grimm, Director, Planning and Zoning

Mr. Grimm appeared before the Commissioners to present a proposed Ordinance amending the Comprehensive Zoning Regulations relative to forest conservation as required by Natural Resources Article Title 5, Subtitle 16. He also presented correspondence addressed to the Department of Natural Resources forwarding the ordinance and requesting delegation of review responsibility for any projects which are sanctioned, sponsored, or funded in whole or part by any county agency.

During discussion the Commissioners expressed concern about the costs relative to the program and the impact on citizens who want to build a home.

After discussion Commissioner Jarboe reluctantly moved, reluctantly seconded by Commissioner Bailey, to sign Ordinance No. 93-01 - Forest Conservation Regulations for St. Mary's County and to sign and forward the letter to DNR as presented. Motion carried.

2) St. Mary's Press - 1982 and 1989 MILA Loans

The County Administrator presented correspondence addressed to the Maryland Department of Economic and Employment Development regarding the two MILA loans for McGregor-Werner, Incorporated (t/a St. Mary's Press). St. Mary's County is indebted to the State of Maryland as the guarantor of the referenced loans. The letter explains the history of the default of St. Mary's Press, the status of the Chapter 11 bankruptcy proceedings and requests that St. Mary's County be allowed to suspend payments for two years or until the firm has an opportunity to resolve its financial problems.

After discussion Commissioner Jarboe moved, seconded by Commissioner Bailey, to sign and forward the letter as presented. Motion carried.

3) **St. Mary's County Public Schools
Grant Awards**

In response to December 14 correspondence the County Administrator presented a letter addressed to the Board of Education approving the inclusion of grants totalling \$87,672 in the Approved Operating Budget for FY '93.

Commissioner Jarboe moved, seconded by Commissioner Bailey, to sign and forward the letter as presented. Motion carried.

4) **Grants**

The County Administrator presented the following grant applications for the Commissioners' review and consideration:

Women's Center

Letter of support addressed to Maryland Victims of Crime Fund for the application of the St. Mary's Women's Center for funds from the Governor's Office of Justice Administration.

Commissioner Jarboe moved, seconded by Commissioner Bailey, to sign and forward the letter as presented. Motion carried.

Walden Counseling Center

Grant Application for "Victims No More" Project for adult victims of domestic violence and sexual assault/abuse in the amount of \$18,599

Grant Application for "Children's Challenge" Project for child victims of sexual assault/abuse in the amount of \$42,404.

Commissioner Jarboe moved, seconded by Commissioner Bailey, to approve and authorize Commissioner Vice-President Lancaster to sign the grant applications as presented. Motion carried.

**Patuxent River Estuary Demonstration Project
Memorandum of Understanding**

Between Board of St. Mary's County Commissioners and the St. Mary's County Soil Conservation District which provides for a pass through of funds to the Soil Conservation District for the performance of certain work under the referenced project.

Commissioner Jarboe moved, seconded by Commissioner Thompson, to approve and authorize Commissioner Vice-President Lancaster to sign the Memorandum of Understanding as presented. Motion carried.

**Historical Society
Cecil's General Store
Cecil's Old Mill**

Correspondence addressed to the Maryland Historical Trust supporting the Historical Society's application for a grant for the replacement of a roof on Cecil's General Store.

Correspondence addressed to the Maryland Historical Trust supporting the Historical Society's application for a grant for the replacement of windows at Cecil's Old Mill.

Commissioner Bailey moved, seconded by Commissioner Thompson, to sign and forward the letters as presented. Motion carried.

5) **National Volunteer Fire Council**

The County Administrator presented correspondence addressed to Mr. John Gatton, Jr. offering the county's support and endorsement for the National Volunteer Fire Council that will be held in the County September 30 - October 3, 1993.

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

6) **Community College Contract for Higher Education Services**

As a follow up to previous discussion held December 22, the County Administrator presented a Contract between the Board of Trustees of Charles County Community College and the Board of County Commissioners of St. Mary's County for the provision of higher education services to St. Mary's County by the Charles County Community College. County Administrator Cox advised that if the Commissioners approve the contract, it will be forwarded to the Charles County Community College Board of Trustees for approval.

After discussion Commissioner Jarboe moved, seconded by Commissioner Thompson, to approve and authorize Commissioner Vice-President Lancaster to sign the Contract as presented. Motion carried.

7) **Appointments
Boards, Committees, Commissions**

Commissioner Bailey moved, seconded by Commissioner Jarboe, and motion carried, to make the following appointments with terms as indicated:

Community Development Block Grant Adv. Com. Term to Expire

Andrew Kozak 12/31/97

Recreation and Parks Board

H. Harold Bishop (reappt.) 12/31/96

Family Assistance Center Adv. Committee

Diane M. Shoemaker (reappt.) 12/31/94

PUBLIC HEARING

ROAD NAME CHANGE - OLD ROUTE 5 TO GASLEWBROOK ROAD

Present: Dan Ichniowski, Director, Department of Public Works

The Commissioners conducted a public hearing to consider the renaming of Old Route 5 (also known as State Route 5F) to Gaslewbrook Drive, as requested by the citizens residing on the road in Scotland. The road is located off of Md. Route 5 (also known as Point Lookout Road) in the First Election District and is 0.19 miles long.

The hearing was opened for public comment:

Sophia Lewis spoke on behalf of the residents stating that the requested change was supported by a majority of the property owners.

Eddie Wood of the State Highway Administration advised that it was a state road and that SHA has no objection to the road name change and will continue to maintain it as a state road.

After discussion the public hearing was closed.

Commissioner Bailey moved, seconded by Commissioner Jarboe, to authorize the Director of the Department of Public Works to prepare the appropriate Resolution renaming a portion of Old Route 5 in Scotland to Gaslebrook Drive. Motion carried.

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director

1) Happyland Road (Resolution No. R92-42)

Also Present: Sheriff Pettit
Deputy Skip Stewart
Felton Rothwell, Happyland Club

Mr. Ichniowski reminded the Commissioners of the Resolution they had adopted on December 15 posting Happyland Road as a **No Parking Zone** from its intersection with Maryland Route 249 for approximately 200 feet on the northern and southern sides of the roadway. The posting was as a result of a recommendation from the Sheriff because of safety concerns.

Because it was their understanding that Mr. Rothwell had not been informed of the referenced action, the Commissioners had requested Mr. Ichniowski to bring the matter back before the Board for reconsideration.

Sheriff Pettit presented drawings and photographs of the area and pointed out the narrow shoulders and the sight distance problems caused by parking on both sides of Happyland Road.

Mr. Rothwell pointed out to the Commissioners that he had recently taken over the Happyland Club and had made many improvements including the construction of a parking lot which should be completed in the spring. He stated that he was willing to cooperate, but felt that whatever was required of him should also be required of other establishments in the county with similar situations. He further advised that he would inform the patrons of Happyland Club to not park on both sides of the road.

After lengthy discussion the Commissioners agreed to not install the **No Parking** signs, monitor the situation for a month and return to the Commissioners with a report. Mr. Ichniowski stated that in the future he would notify establishments prior to taking any action.

**2) Addendum to Shore Erosion Control Agreement
Hollywood Shores**

Mr. Ichniowski presented an Addendum to the Shore Erosion Control Agreement for Hollywood Shores. The original Agreement called for 208 linear feet of timber bulkhead; however, after investigation, DNR determined that would not be sufficient to stop the erosion. The addendum includes in the design an additional 245 linear feet of stone revetment.

Commissioner Jarboe moved, seconded by Commissioner Bailey, to approve and authorize Commissioner Vice-President Lancaster to sign the Addendum to Notice to Proceed with Design as presented. Motion carried.

**3) Public Announcement
Telephone Book Recycling**

Mr. Ichniowski presented a Public Announcement advising that the Department of Public Works in cooperation with St. Mary's Disposal Systems, Inc. and C & P Telephone Company will be providing recycling for old telephone books. The service will be provided January 25 - February 12 at St. Mary's Disposal facilities on St. Andrews Church Road.

**4) Public Works Agreement
Forest Knolls**

Mr. Ichniowski presented a Public Works Agreement dated December 2, 1992 between Dennis Frischholz c/o D&E Construction Company and St. Mary's County guaranteeing completion of Frischholz Court by December 1, 1993. The Agreement is backed by a Letter of Credit with First National Bank of St. Mary's in the amount of \$94,500.

Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Vice-President Lancaster to sign the Public Works Agreement as presented. Motion carried.

**ST. MARY'S COUNTY HEALTH DEPARTMENT
MERGER AGREEMENTS**

Present: Dr. William Marek, Health Officer
Kathy O'Brien, Walden
Ed Mosely

As a follow up to previous discussions, the referenced individuals appeared before the Commissioners to present the following agreements relative to the merger of health department programs:

- o Agreement between the St. Mary's County Government, St. Mary's County Health Department, St. Mary's County Mental Health Authority and Mental Health Services of Southern Maryland, Inc. wherein the Health Department will convey its existing division of mental health to a new non-profit corporation, Mental Health Services of Southern Maryland, Inc. effective January 1, 1993.
- o Contractual Agreement between the St. Mary's County Government, St. Mary's County Health Department and Walden/Sierra Corporation for outpatient addiction treatment services.

Commissioner Jarboe moved, seconded by Commissioner Thompson, to approve and authorize Commissioner Vice-President Lancaster to sign the Agreements as presented. Motion carried.

EXECUTIVE SESSION

Commissioner Jarboe moved, seconded by Commissioner Thompson, to meet in Executive Sessions to discuss matters of Personnel (State's Attorney's Office) as provided under Article 24, Section 4-210(a)1 and Property Acquisition (community college site) as provided under Article 24, Section 4-210(a)11. Motion carried.

Personnel

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

Authority: Article 24, Section 4-210(a)1, Md. Annotated Code

Topic: Personnel - State's Attorney's Office

Time Held: 10:40 a.m. to 10:50 a.m.

Action Taken: Commissioners briefly reviewed and suspended discussion until a later date of the staff classifications in the State's Attorney's Office.

Property Acquisition

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

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

Topic: Property Acquisition - Community College Site

Time Held: 10:50 a.m. to 11:05 a.m.

Action Taken: Reviewed confidential correspondence from Community College Board regarding selection of a site.

**ST. MARY'S PUBLIC SCHOOLS
PARK HALL RENOVATION CONTRACT**

Present: Ed Fitzgerald, Asst. Superintendent, Adm.
Jerry Himmelheber, Supervisor, School Construction
Charles Wade, County Director of Finance

Representatives of St. Mary's Public Schools appeared before the Commissioners to advise that the Interagency Committee on School Construction has granted planning approval for the Park Hall Elementary School Addition and Renovation. Mr. Himmelheber, therefore, requested the Commissioners to authorize the release of advance funding for the project in order for the contract to be awarded to the low bidder.

During discussion Mr. Wade pointed out that the County has not yet received reimbursement from the State for previous forward funding for the Green Holly and Lettie Dent schools and that the reimbursement had been reduced from \$856,000 to \$819,000. Mr. Himmelheber indicated that the check from the state is to be processed on January 10.

After discussion Commissioner Jarboe moved, seconded by Commissioner Thompson to authorize the Board of Education to proceed with awarding the contract for the Park Hall Elementary School project on the condition that the State's payment be received for past forward funded projects in the amount of \$819,000. Motion carried.

Mr. Wade requested that when the funds are received from the State that they be transferred to the county.

MARYLAND UNIFORM BUILDING CODE

Relative to the December 15 presentation by the Director of the State Community Assistance Administration, Commissioner Thompson referred to the Commissioners' hesitancy to support the Maryland Uniform Building Code legislation because of the criteria each county had to implement. She stated that she had been particularly concerned with the requirement for "review and acceptance of appropriate building plans." Commissioner Thompson advised that she had spoken to Mrs. Martino, Chief, Inspections and Enforcement at Planning and Zoning regarding this concern and as a result the State has agreed to add language that implementation of the four criteria would be at the discretion of the local jurisdiction.

The Commissioners indicated that they were not ready to take a position on the State Building Code at this time. The Code will be an item of discussion at the January 7 Tri-County Council meeting.

LOCAL GOVERNMENT INSURANCE TRUST

Present: Larry Bradley, Director, LGIT
Julia Gouge, Chairperson, "
Sue Weber, "
David Funk, Attorney for LGIT

The referenced representatives from Local Government Insurance Trust (LGIT) appeared before the Commissioners to explain its relationship and role with St. Mary's County in general and in particular with a current legal issue.

Ms. Gouge reviewed the history of LGIT's involvement with The Skydivers legal matter starting in May of 1992 and the county's subsequent request in the fall for assistance in payment of a legal bill from another attorney involved in the case. A letter was sent to the County setting forth what LGIT was willing to do.

Mr. Funk explained that LGIT was formed five years ago to serve as an insurance pool for counties and municipalities to protect against money damage exposure for liability and not for public policy issues. LGIT in each instance has to make sure that the participants are being accommodated and the fund is protected. Mr. Funk stated that in The Skydiving legal matter, both money damages and public policy are involved. It is the Trustees of LGIT's responsibility to see that the fund's exposure is minimized, and therefore, cannot handle legal matters other than monetary exposure.

Representatives of LGIT stated that in order to have more detailed discussion of the matter, the meeting should be held in Executive Session.

EXECUTIVE SESSION

Commissioner Bailey moved, seconded by Commissioner Jarboe, to meet in Executive Session to discuss a matter of Litigation (The Skydiving Center) as provided under Article 24, Section 4-210(a)8. Motion carried.

Litigation

Present: Commissioner John G. Lancaster, Vice-President
Commissioner W. Edward Bailey
Commissioner Robert T. Jarboe
Commissioner Barbara R. Thompson
Edward V. Cox, County Administrator
Joe Densford, County Attorney
Larry Bradley, Director, LGIT
Julia Gouge, Chairperson, "
Sue Weber, "
David Funk, Attorney for LGIT
Judith A. Spalding, Recording Secretary

Authority: Art. 24, Section 4-210(a)8, Md. Annotated Code

Topic: The Skydiving Center litigation

Time Held: 11:50 a.m. - 1:12 p.m.

Action Taken: Reviewed the role of LGIT in The Skydivers Litigation, details of the case, and the shared funding.

STAFF MEETING

The Commissioners attended the regular monthly staff meeting held at the Carter State Office Building Public Meeting Room.

FISCAL YEAR 1993 BUDGET

Present: Charles Wade, Director of Finance

Relative to the development of the Fiscal Year 1994 Budget, Mr. Wade presented the following documents: Summary of Total Operating Budgets for all counties in Maryland for years 1990 through 1993, FY 1994 Budget Development Calendar beginning with the Economic Outlook held September 1992 to the approval of the budget May 25, 1993.

The Commissioners reviewed June 16 correspondence from the Alliance of Concerned Taxpayers which set forth suggestions for the budget development process. After review the Commissioners agreed to the following:

- o To allow public to speak during the Commissioners' budget work sessions;
- o To present a synopsis of the proposed budget at the public forums for February, March and April;
- o To include in the Budget message by-department revenue and expenditures and indicate those expenditures with offsetting revenues
- o To set the public hearing dates a week apart rather than two nights in a row. (April 20 - Board of Education; April 27 - Other Spending Units, Leonardtown Elementary School, 7:00 p.m.)
- o To direct staff to return with a proposal regarding the re-establishment of the Revenue Task Force outlining goals, objectives and time frame, and to also look at performance auditing.

In addition Mr. Wade distributed a handout setting forth areas that the Commissioners will have to address during the development of the budget including Revenue Forecast and Policy Issues:

- o Revenues (Decrease in property tax collections, increase in income tax collections, and increase in energy tax collections): Mr. Wade suggested that the Commissioners may want to consider transitioning to 100% cost recovery for using fees for Recreation and Parks programs to make them entirely self-supporting.
- o Expenditures: Funding of grants, Using actual student population figures rather than forecast figures.

Health Insurance Costs: Mr. Wade distributed a chart setting forth cost sharing of health insurance payments showing employee contributions at various levels and the costs to the county at each rate.

Step Increases vs. COLA's

7:00 P.M.

PUBLIC HEARING ELECTRICAL EXAMINERS BOARD

Present: Paula Martino, Chief, Inspections and Enforcement
Arthur Goode, Chairman, Electrical Examiners Board

The Commissioners conducted a public hearing for the following purposes:

- o Adoption of the 1993 National Electric Code

- o Adoption of Amendments to Board of Electrical Examiners Rules and Regulations regarding the issuance of a restricted license relative to low voltage and low energy wiring and circuits for fire and burglar alarm systems.
- o Amendment to Section 247-1 of the St. Mary's County Code repealing reference to electrical permits and replacing with provisions governing the conditions under which the issuance of zoning or building permits for electrical work is required and the nature and type of electrical inspections to be performed.

The hearing was opened for comments from the public after which the Commissioners advised that the hearing was closed and the record would remain open for ten days.

A tape of the proceedings is on file in the Commissioners' Office.

ADJOURNMENT

The meeting adjourned at 8:10 p.m.

PUBLIC FORUM

The Commissioners conducted the regular monthly public forum accepting comments and questions from the audience:

Doug Capone (North Town Creek) - Had expressed concern at December public forum regarding SMECO's power line proposed to go through Town Creek as it relates to health issues. He informed Commissioners of meetings that have been held by SMECO. SMECO has agreed to give reconsideration to rerouting the line, placing it underground, and give consideration to halting the project until health impact studies are completed.

County Administrator Cox advised that State Highway Administration and SMECO will be meeting with the County Commissioners next Tuesday (January 12) at 2:30 regarding an alternate route.

Commissioner Thompson inquired whether Mr. Capone and others would be interested in continuing their efforts on this issue by looking at other areas in the County. Mr. Capone stated that he would be interested and has had discussion about the formation of a committee to look at the possibility of a power line corridor in the County.

Sam Moyle (North Town Creek) - Referred to various studies that indicate the relationship of cancer to high power transmission lines and requested the Commissioners to work with the Committee, SMECO, and SHA to develop alternate route or buried lines.

Sarah Moyle (North Town Creek) - Read letter from Genivieve Aldridge expressing concerns about health hazards connected with the high power lines.

Phil Conti (Town Creek) - Informed Commissioners of a deep culvert at the corner of Gunston and Spruce in Town Creek. The County Administrator advised that his concern would be relayed to the Department of Public Works for handling.

Marv Franzen - (1) Opposed to SMECO power line in Town Creek; (2) Questioned the legality of a garage renovated into an apartment by a neighbor adjacent to his home in Town Creek. He stated that he had been denied putting an apartment on his garage because of the need for a 10,000 square foot sewage easement. Neighbors are concerned that the apartment will be sold and used as a rental which would lower the value of the homes in the area.

Ann Marie Maloney - Questioned Commissioners' reaction to comments from representatives from LGIT in Open Session that they would not cover all of The Skydiving Center law suit and where does this fit in with the County's priorities.

Commissioner Bailey indicated that LGIT only covers liability; Commissioner Jarboe stated that the County has an investment of taxpayers' money in the Airport; Commissioners Lancaster and Thompson stated they had no comment because it was a matter of litigation.

Brad Ruby - Inquired as to how many law suits the County is involved in in addition to The Skydivers and Pegg Road condemnation. County Administrator Cox responded that there were three or four smaller cases (permit violations).

Marv Franzen - Suggested that since the County as a full time attorney, the County Attorney should handle The Skydiving litigation.

Keith McGuire (Community Coalition) - Advised that the Coalition has filed a petition to the Board of Appeals decision regarding the conditional use for the Pickett Landfill, filed an appeal to the County Commissioners of the Planning Commission's decision of November 9, 1992, and filed an injunction to stop development at the landfill. He stated that Senator Simpson has corresponded to the Maryland Department of Environment and the Department of Agriculture requesting a meeting to respond to concerns raised by the Coalition. Mr. McGuire indicated that the Coalition is aggressively pursuing every angle to convince the Commissioners, the Planning Commission, the Board of Appeals, and other appropriate officials to assist the Coalition in this effort.

Ken Hastings - Referred to discussion at the December public forum about responsiveness of county government. He stated that the "stump dump" (Pickett Landfill) is the best example of "county government at its worst." He stated that it had no benefit and there is much opposition.

Daphne McGuire - Pointed out that there was misinformation as to the adequacy of Route 6 to handle the traffic that would be generated by the landfill. She stated that the Coalition took pictures, made a video and took measures and was totally ignored at the meetings.

Larry Jarboe - Expressed opposition to the Pickett landfill--referred to the amount of municipal solid waste that will be deposited at the landfill and the amount of leachate.

The public forum concluded at 9:45 p.m.

Minutes Approved by Board of
County Commissioners on 1/12/93

Judith G. Spalding
Recording Secretary