

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

February 9, 1993

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

CALL TO ORDER

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

APPROVAL OF MINUTES

Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve the minutes of the Commissioners' meeting of Tuesday, February 2, 1993. Motion carried.

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve the Planning and Zoning portion of the Commissioners' meeting minutes of January 12, 1993. 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.

COMMUNITY PRESERVATION COALITION APPEAL

The County Administrator advised that the Community Preservation Coalition submitted correspondence dated February 8 withdrawing its appeal and rescinding its December 4, 1992 letter on the condition that the meeting between the officers of the Coalition and the Commissioners scheduled for 9:40 is not changed in scope or rescheduled.

The Commissioners agreed to suspend discussion until the scheduled 9:40 a.m. meeting.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

- 1) **House Bill 132
Departments of Agriculture/Natural Resources Merger**

The County Administrator presented correspondence addressed to the Environmental Affairs Committee opposing HB 132 which merges the Department of Agriculture with the Department of Natural Resources. The letter indicates that the proposed merger would dilute the agriculture voice and identity and would not improve state government.

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

- 2) **Southern Maryland Regional Technology Council
So. Md. Applied Research and Technology Consortium**

In response to February 1 correspondence, the County Administrator presented a letter addressed to the Southern Maryland Regional Technology Council supporting its proposal to the National Technology Transfer Center for funding under the Strategic Partnership Initiative for the Southern Maryland Applied Research and Technology Consortium. The Consortium will promote, evaluate, and commercialize the region's technology assets as well as coordinate and market the region's technologies and testing facilities worldwide.

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

3) Sewage Sludge Utilization Permits

The County Administrator presented the correspondence addressed to the Maryland Department of Environment for the Commissioners' review and consideration regarding the following Sewage Sludge Utilization Permits:

- o Sewage Sludge Permit Modification Forms for Hanover Farms, Inc. Thomas Cryer, James Cryer, and Evans Fletcher.
- o Sewage Sludge Permit Applications for Emcee Promotions and Leonardtown Sand and Gravel.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to sign and forward the letters as presented. Motion carried four to one with Commissioner Jarboe voting against.

4) Formal Grievance Review Board

The County Administrator presented a memorandum dated February 9 from the Personnel Officer requesting an exception to the Manual of Personnel Policies and Procedures requiring the County Administrator to serve as senior member of a formal grievance review board. The request is for a forthcoming grievance only in that he had counseled the individual prior to the filing of the grievance. In order to avoid a potential conflict of interest the Personnel Officer recommended that the Director of Public Works serve as the senior member in this case.

Commissioner Bailey moved, seconded by Commissioner Thompson, to replace the County Administrator in this grievance case only with the Director of Public Works. Motion carried.

**5) Grant Agreement and Easement
Innovative/Alternative Sewage Disposal System
Joseph LeCompte Property - Long Neck Creek**

The County Administrator presented the referenced Grant Agreement and Easement dated December 29, 1992 for the Joseph LeCompte property on Long Neck Creek Road, First Election District. The application has been reviewed by the Director of Environmental Health and the Maryland Department of Environment which have agreed to the property's eligibility. The project will be federally funded; no county funds are involved.

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

**6) Budget Amendment No. 93-29
County Attorney**

The County Administrator presented the referenced Budget Amendment recommended for approval by the Director of Finance with the following justification: To fund anticipated self-insurance expenses. (\$14,926)

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and sign Budget Amendment 93-29 as presented. Motion carried.

7) **Board of Education - Grant Awards**

In response to January 15 correspondence, the County Administrator presented a letter approving the inclusion of grant awards in the FY '93 budget.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve and sign the letter as presented. Motion carried.

8) **1993 Legislative Package**

The County Administrator presented a status report on the 1993 Legislative Package. The status sheet included references to various correspondence received from the Legislators indicating which bills will be submitted and those that will not.

COMMUNITY PRESERVATION COALITION OF ST. MARY'S

Present: Keith McGuire, Vice-President (spokesperson)
Gail Wilt, President
Cathlyn Ballard, Secretary
Terry Radcliff, Treasurer
Ron Pickett, FERST of St. Mary's Landfill
James W. Deveney, Attorney, FERST
Joe Densford, County Attorney
Jon Grimm, Director, Planning and Zoning

The referenced representatives of the Community Preservation Coalition appeared before the Commissioners to present alleged inconsistencies between the Board of Appeal's conditional use decision and the Planning Commission's site plan approval regarding the FERST of St. Mary's Landfill project.

Referring to the February 8 letter from the Coalition withdrawing its appeal, County Attorney Densford pointed out that the appeal had initially been taken by the Coalition. Later individuals joined the appeal, and Mr. Densford inquired whether these individuals also joined in the withdrawal of the appeal. Mr. McGuire indicated that the withdrawal of the appeal included those individuals as well as the Coalition.

In setting the guidelines for the meeting, Mr. Densford stated that the purpose of the meeting is to discuss whether there are inconsistencies or discrepancies between the conditions imposed by the Board of Appeals in its approval of the project and the Planning Commission's approval of the site plan.

By way of charts, Mr. McGuire presented an outline of the inconsistencies perceived by the Coalition. He first referred to pertinent documents used in reaching its conclusions: Board of Appeals Resolution of April 2, 1991 (setting forth the 25 conditions); Board of Appeals letter of February 21, 1992 (restating the 25 conditions); Board of Appeals Resolution of February 27, 1992 (changing one of the conditions); Planning Commission minutes of September 28, 1992; Planning Commission minutes of October 26, 1992; and Planning Commission minutes of November 9, 1992. During his presentation, Mr. McGuire pointed out the following inconsistencies:

Inconsistency No. 1 - Number of trucks per day at the site. Board of Appeals testimony included discussion of an estimate of seven trucks a day; Planning Commission approved a maximum of 50 trucks a day.

Inconsistency No. 2 - Installation of gate and paving to Route 6. Board of Appeals Condition #23 required placement of gate and the entrance way to be paved 400 feet from Route 6. Planning Commission approved the placement of the gate at 200 feet from Route 6.

Inconsistency No. 3 - Buffer area around the property. Condition #13 of the Board of Appeals required a 200 foot buffer. Condition #5 was amended by the Board of Appeals changing the cell size, which the Coalition believes affected the buffer zone. There was no change to Condition #13, the Planning Commission did not comment on the buffer zone infringements, and the Planning Commission approved the site plan with the infringements.

In summarizing his presentation, Mr. McGuire stated that the Board of Appeals set the 25 conditions based on pertinent facts and the Planning Commission ignored those facts, and therefore, it was the Coalition's contention that the Planning Commission exceeded its authority.

Mr. Grimm indicated that the information from the Coalition was correct; however, he disagreed with its findings. He referred to his February 9 memorandum to the Commissioners in which he set forth the roles of the Board of Appeals and the Planning Commission with regard to the Conditional Use Application and site plan application. He further pointed out the specific considerations used in the two bodies' approval process. During his comments, Mr. Grimm addressed each of the inconsistencies as presented by the Coalition.

Inconsistency No. 1 - (Truck Traffic) The Planning Commission reviewed traffic impact studies and in accordance with the Adequate Public Facilities section of the Zoning Ordinance imposed a cap on the amount of truck traffic to the site. He stated that he did not believe it violated the standards that the Board of Appeals imposed. There was testimony at the Board of Appeals meeting, but the Board did not set a limit. He pointed out that the Board of Appeals standards are general, and the Planning Commission's standards are more specific.

Mr. Grimm noted that the Planning Commission has recommended that the Adequate Public Facilities may be better handled by the Board of Appeals. The Planning Commission has also recommended that the Board of Appeals be the Site Plan approving authority.

Inconsistency No. 2 - (Gate and Pavement) The staff had recommended that the gate be placed 200 feet from the road rather than at the end of the pavement, and the Planning Commission accepted this recommendation. Staff was concerned about nuisance type activity that would occur within a 400 foot isolated area.

Commissioner Loffler suggested that this item should go back to the Board of Appeals.

Inconsistency No. 3 - (Buffer) The Planning Commission's action was consistent with the Board of Appeals. The Board of Appeals revision of August 18, 1992, which changed the cell size, modified this condition. The buffer was changed unwittingly by the Board of Appeals itself. Mr. Grimm indicated that this could be corrected, and he would take it back to the Board of Appeals.

Mr. Deveney, attorney for Mr. Pickett, referenced the Coalition's withdrawal of its appeal and stated that FERST has an approved site plan. He further pointed out that there is pending litigation on this matter filed by the Coalition. Mr. Deveney stated that Planning and Zoning staff testified that the Board of Appeals modified its own condition, the appropriate site plan process has been followed, and any action would be contrary to the Zoning Ordinance.

Regarding the gate and pavement, Mr. Pickett stated that he had told both boards at both hearings that he would put a gate at 400 feet or 200 feet or at both, and that he was planning to pave better than 400 feet. Relative to the 200 foot buffer he stated that the TEC, which did the review for the Board of Appeals two years ago, considered the buffer exactly

as it is currently shown. When the cell configuration for final design was modified, it did not change the buffer area at all. He pointed out that there is adjoining property next to the cell, which the Coalition is pointing out as not having a buffer, with unknown title, and under common law FERST probably owns all or half of that property. He stated that they used the property line where FERST had clear title.

In conclusion the Commissioners thanked the Coalition for its concerns and presentation of the issues.

DIRECTOR OF FINANCE

Present: Charles Wade, Director of Finance

1) Ordinance No. 93-07 Supplemental Appropriation Ordinance

The Commissioners conducted a public hearing on January 26 on the Supplemental Appropriation Ordinance which increases the Fiscal Year 1993 Budget by \$2,264,709. Senate Bill 1, the Second Budget Reconciliation Act for Fiscal Year 1993 reduced state assistance to the St. Mary's County Board of Education by \$2,176,149; the St. Mary's County Library by \$45,524; and the Charles County Community College at St. Mary's by \$43,036, and requires the Commissioners to pay these sums to the State of Maryland to pay the Social Security Tax for certain educational personnel.

Budget Amendment No. 93-29 County Commissioners

Mr. Wade presented the referenced Budget Amendment to cover the state reductions as outlined in referenced Ordinance No. 93-07.

Letter to Board of Education

Mr. Wade presented correspondence addressed to the Board of Education advising that the Board of Education budget has been reduced by \$401,491 in order to make the payments in accordance with Senate Bill. The letter requests identification by category as to how the Board is planning to accommodate the state budget reductions.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve and sign Ordinance No. 93-07, approve and authorize Commissioner Loffler to sign the Budget Amendment, and approve and sign the letter to the Board of Education. Motion carried.

2) Agenda Items - Joint Meeting with Board of Education

The County Administrator advised that two items were being eliminated from the joint meeting with the Board of Education: Procurement Effort and Privatization - Hollywood Elementary School. He stated that these items will be ready for discussion at next month's meeting.

Discussion ensued as to the scope of the FY '94 Budget discussion with the Board of Education. The Commissioners agreed that Mr. Wade should present a general overview of revenues, expenditures, shortfalls, impact of state reductions and interest.

Commissioner Thompson inquired as to status of the establishment of the committee that will be looking at revenues and expenditures. Commissioner Loffler suggested that the committee also look at elected official salaries for possible adjustments. County Administrator Cox advised that the staff is developing a scope of activities and will be bringing it before the Commissioners at a later date.

COURTYARD AT GREAT MILLS

Present: Joe Mitchell, Director, DECD
Bill Wirth, Developer
John Norris, NGO

Mr. Mitchell explained the purpose of this meeting was to present a request from Mr. Wirth for approval of a rental housing project in Lexington Park, which is to be financed by the Department of Housing and Community Development. 24 units of the 120 unit development will be low-income known as Courtyards at Great Mills, located on Mattaponi Boulevard.

Mr. Mitchell advised that an application has been submitted to DHCD for financing of the development in the form of a \$6,000,000 loan. DHCD's regulations requires local government approval and a contribution to assist in the financing of the project. The County's investment would be \$48,000 representing \$2,000 per unit for each of the 24 low-income units, which will be a loan in the form of a credit against up to \$2,000 per unit of impact fee. Repayment will be amortized at 4% interest over 40 years.

During discussion the Commissioners raised the following points:

- o Whether there is need for additional housing in the County; (County Administrator Cox advised that the Affordable Housing Task Force has indicated that a hundred units must be on the market a year to meet the demand.)
- o Whether a marketing study has been done
- o Commissioner Loffler questioned the term "credit against" as contained in the proposed Resolution approving the project.
- o Commissioner Jarboe suggested that if exceptions on payment of impact fees are made for some it should be made available to others.
- o Whether the one-bedroom/efficiency apartments have appropriate EDU's (equivalent dwelling units) allocated.
- o That priority be given to low-income St. Mary's County residents.

The Commissioners agreed to defer a decision on the Resolution until next week and requested additional information to assist them in making a decision: inventory of current available housing, and the types of programs that are used in Calvert and Charles Counties.

EXECUTIVE SESSION

Commissioner Bailey moved, seconded by Commissioner Thompson, to meet in Executive Session to discuss a matter of Property Acquisition (Wicomico Shores), as provided in Article 24, Section 4-210(a)11. Motion carried.

Property Acquisition

Present: Commissioner Carl M. Loffler, Jr., President
Commissioner W. Edward Bailey
Commissioner Robert T. Jarboe
Commissioner John G. Lancaster
Commissioner Barbara R. Thompson
Edward V. Cox, County Administrator
Joe Densford, County Attorney
Joe Mitchell, Director, DECD
Larry Petty, Director, MetComm
Frances Eagen, Chair, "
Judith A. Spalding, Recording Secretary

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

Topic: Property Acquisition - Wicomico Shores

Time Held: 12:05 p.m. - 1:05 p.m.

Action Taken: Reviewed material regarding water and sewer capacity and land required for acquisition at Wicomico Shores and discussed options for resolution in preparation for next week's meeting.

COUNTY COMMISSIONERS/BOARD OF EDUCATION - JOINT MEETING

Present: Jonathan Nelson, President, Board of Education
Al Lacer, "
Bob Kirkley, "
Joan Kozlovsky, Superintendent of Schools

1) Black History Month

Students from various schools made presentations (music, poems, etc.) in honor of Black History Month.

2) Vocation Education Week

The Board of Education presented a Proclamation recognizing Vocation Education Week and displayed work created by the metal shop participants.

3) Fiscal Year 1994 Budget

Mr. Wade presented handouts outlining revenue forecasts, total requests, shortfalls, impact of state revenue reductions, and loss of interest revenue because of current economics. Mr. Wade pointed out that the reductions from the state are permanent reductions that will be reflected in future budgets.

In order to see the full impact, the Commissioners requested the Board of Education to provide a list of all reductions from the state to the Board.

4) State Education Mandates

Dr. Kozlovsky distributed a handout listing the State Education Mandates, describing their implications, fiscal impact and recommendations. She recommended that county and board of education staff work together to develop a position for presentation at the hearing on the mandates in Annapolis on February 11.

UNITED POWER SYSTEMS, INC. CLEAR BAY PROJECT

Present: Joe Mitchell, Director, DECD
Michael T. Eckhart, President, United Power
Dennis A. Toth, Ensearch Development
Joseph C. Furio, SMECO

Mr. Mitchell advised that United Power Systems is currently looking at various sites in the County for a co-generation facility and ecology center. The project proposes a natural gas fired cogeneration power plant with a means of contributing to the ecological condition of the Chesapeake Bay.

By way of a chart presentation, Mr. Eckhart described the operation of the cogeneration facility, which will provide low-cost energy to the oyster facility.

Mr. Mitchell presented correspondence dated February 8 from the Economic Development Commission which states that the Zoning Ordinance does not mention private utilities, such as this project.

In closing Mr. Eckhart pointed out that an area that the County could help would be infrastructures to support the facility and requested that a contact person be designated. The Commissioners designated the Director of Economic & Community Development as the contact person.

RECREATION AND PARKS

Present: Phil Rollins, Director

1) Tree Planting Grant Application

Mr. Rollins presented a grant application to be submitted to the Maryland Department of Natural Resources for funds in the amount of \$7,540 from the U. S. Small Business Administration and will be matched by in-kind services provided by the Parks Division. The funds will be used to purchase and plant 63 trees at the Regional Park and at Dorsey Park along the roadways, walkways for shade and beautification.

Discussion ensued regarding the Reforestation Program and suggested that Mr. Rollins contact the Director of Planning and Zoning to see if the Tree Planting Program meets the requirements.

Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign the Grant Application as presented. Motion carried.

2) Museum Grant Application

Mr. Rollins presented a Museum Assistance Grant Application for the Piney Point Lighthouse for submission to the Department of Housing and Community Development in the amount of \$11,407. The grant would be used to hire part time employees to manage and interpret exhibits at the Museum as well as staff the small gift shop on the site. No county funds are involved, but it will require in-kind services.

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign the Grant Application as presented. Motion carried.

3) Softball Hall of Fame

Mr. Rollins advised the Commissioners that the Maryland Board of Public Works approved the Program Open Space Application for funds to purchase materials for the construction of the Softball Hall of Fame at the Regional Park.

Relative to the Regional Park, Mr. Rollins informed the Commissioners of the following:

- o The Chancellor's Run Activity Center will be before the Board of Public Works next week.
- o The lights for the ball field will be completed by May 1.
- o The dedication of the Regional Park has been tentatively scheduled for Saturday, May 1.

4) Gymnastic Center

Mr. Rollins advised the Commissioners that he will be coming before the Commissioners at a future meeting to discuss a proposed lease agreement for commercial space for a gymnasium center.

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director

1) Happy Land Road

Also Present: Sheriff Wayne Pettit
Deputy Skip Stewart
Felton Rothwell, owner, Happy Land Club

As a follow up to previous discussions, Mr. Ichniowski advised that as requested by the Commissioners the Sheriff's Department has been monitoring the parking situation on Happy Land Road. Deputy Stewart reported that he had visited the area several times, and although Mr. Rothwell has made significant effort to correct the problem, it is still a potentially dangerous situation.

Mr. Rothwell reiterated his previous willingness to comply with the law, and emphasized that all establishments should be made to comply. He further advised that he has made improvements to the parking area, allowing more cars to park in the lot instead of the road, and that he was having additional improvements done.

After discussion the Commissioners agreed to require "no parking" on one side of the road to see if that would alleviate the hazardous situation. If the problem continues, signs will be put up prohibiting parking on both sides. Mr. Ichniowski further indicated that if the improvements relieve the situation, the signs will be removed.

2) State Agency Fee Bills

As a follow up to last week's discussion, Mr. Ichniowski presented correspondence addressed to the Ways and Means Committee supporting MACo's position in opposing the various bills to collect fees from local jurisdictions for operation costs of various departments.

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

(Commissioner Bailey left the meeting - 3:45 p.m.)

3) Department of Public Works - Budget Summary

For the Commissioners' information, Mr. Ichniowski presented a Fiscal Year 1994 Budget Summary for the Department of Public Works.

**4) Addendum to Public Works Agreement
Persimmon Hill Subdivision**

Mr. Ichniowski presented the referenced Addendum to a Public Works Agreement between Bay Mills Construction Company and Board of County Commissioners extending the deadline for completion of improvements to Persimmon Hill Subdivision, Phase 1, Fifth Election District to March 1, 1994. The Addendum is backed by a Bond with International Fidelity Insurance Company in the amount of \$204,180.

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

**5) Public Works Agreement
Bosse Manor Subdivision**

Mr. Ichniowski presented a Public Works Agreement dated January 28, 1993 between Herman Bosse and St. Mary's County guaranteeing completion of Etna Court by November 1, 1993. The Agreement is backed by a Letter of Credit with the First National Bank of St. Mary's in the amount of \$35,900.

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

6) **Acceptance of Deed
Mattaponi Joint Venture
Road Resolutions**

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

- o Deed dated February 27, 1991 between Mattaponi Joint Venture and the Board of County Commissioners of St. Mary's County accepting Mattaponi Boulevard into the County Highway Maintenance System.
- o Road Resolution No. R93-03 designating Mattaponi Boulevard as a Stop Street at its intersection with Md. Route 246.
- o Road Resolution No. R93-04 posting Mattaponi Boulevard at 25 miles per hour.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve and sign the Deed and Road Resolutions as presented. Motion carried.

7) **Acceptance of Deed - State Highway Administration**

Mr. Ichniowski advised that there are several roads that have been turned over to the County by the State, that the County has been maintaining and receiving gas tax. He stated that there had not been a deed officially turning the roads over to the County, and one has now been prepared. Therefore, Mr. Ichniowski presented a Deed dated December 2, 1993 transferring the following roads to the County: Rts. 252, 498, 860, 861A, 861B, 861C, and 868F.

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to accept and authorize Commissioner Loffler to sign the Deed as presented. Motion carried.

8) **Petition - Road Name Change
Beach Road to Neal Road**

Mr. Ichniowski presented a Petition from five of the six homeowners requesting the name of Beach Road off of Bayview Road in Colton's Point be changed to Neal Road. A public hearing will be scheduled at a later date.

EXECUTIVE SESSION

Commissioner Jarboe moved, seconded by Commissioner Thompson, to meet in Executive Session to discuss a matter of Property Acquisition (Community College Site) as provided in Article 24, Section 4-210(a)11. Motion carried.

Property Acquisition

Present: Commissioner Robert T. Jarboe
Commissioner John G. Lancaster, Vice-President
Commissioner Barbara R. Thompson
Edward V. Cox, County Administrator
Mary Pat Pope, Administrative Officer
Charles Wade, Director of Finance
Judith A. Spalding, Recording Secretary

(Commissioner Loffler did not participate; Commissioner Bailey was not present.)

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

Topic: Property Acquisition - Community College Site

Time Held: 4:25 p.m. - 5:30 p.m.

Action Taken: Reviewed confidential correspondence from Commissioners of Leonardtown and other documentation regarding a site for the community college.

7:00 P. M.

RECREATION MASTER PLAN

Present: Phil Rollins, Director, Recreation and Parks

Mr. Rollins presented and reviewed the Recreation Master Plan and questions and comments were received. Recommendations from the Planning Commission will be presented to the Commissioners on February 23 at which time the Commissioners will be requested to take action.

ADJOURNMENT

The meeting adjourned at 9:30 p.m.

Minutes Approved by Board of
County Commissioners on February 16, 1993

Judith A. Spalding
Recording Secretary

