

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

MAY 4, 1993

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
Judith A. Spalding, Recording Secretary

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

APPROVAL OF MINUTES

Commissioner Thompson moved, seconded by Commissioner Jarboe, to approve the minutes of the Commissioners' meeting of Tuesday, April 30, 1993 and the Planning and Zoning portion of the Commissioners' meeting of Tuesday, April 30, 1993. Motion carried.

APPROVAL OF BILLS

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

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1. Sludge Permit Applications

The County Administrator presented correspondence addressed to the Maryland Department of Environment regarding the following sewage sludge applications and reiterating the county's ongoing concerns over environmental safety and land record notifications.

James J. Long
Sewage Sludge Permit Application

Leonardtowntown Sand and Gravel
Sewage Sludge Permit Modification Application

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

**2) Maryland Association of Counties
Open Meetings Legislation**

The County Administrator presented correspondence addressed to the Maryland Association of Counties in response to April 22 correspondence regarding the impact of the recently amended Open Meetings Law. The return letter states that St. Mary's County was one of the first counties in Maryland to self impose legislation for the open conduct of public business and there have not been any "chilling" effects on citizen involvement in advisory bodies.

The Commissioners agreed to sign and forward the letter.

3. **Fiscal Year 1994 Homeless Prevention Program Application**

The County Administrator presented the referenced Homeless Prevention Program Application for Fiscal Year 1994 in the amount of \$9,000 to be administered by the Department of Social Services.

Commissioner Bailey moved, seconded by Commissioner Thompson, to approve and authorize Commissioner Loffler to sign the grant application as presented. Motion carried.

4. **Gardner Fishery Operations**

As a follow up to the Commissioners' April 13 visit to the proposed crab shedding facility, the County Administrator presented correspondence addressed to Mr. Joseph Gardner stating that the Department of Planning and Zoning has investigated his concerns and that the project approval granted by the Planning Commission was in accordance with the required process for that activity. The letter indicates that because of changes in the Zoning Ordinance, Comprehensive Plan and adoption of the Critical Area Program, requirements for the project had changed and had to be applied to his application.

During discussion the Commissioners requested that the approval of the letter be deferred until they could have additional time for review. The Commissioners further requested that the Department of Public Works review the requirements for pervious surface.

5. **Response Letter to Mark J. Bell**

The County Administrator presented correspondence addressed to Mr. Mark J. Bell responding to his March 3 letter to Congressman Hoyer which had been forwarded to the Commissioners regarding the community college and the Leonardtown Wharf Boat Ramp. The return letter describes the county's entering into a Memorandum of Understanding to acquire property for the community college campus. The letter further states that his suggestion regarding the Leonardtown Wharf will be forwarded to the Department of Recreation and Parks.

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

6) **Letters of Appreciation**

The County Administrator presented correspondence addressed to chairmen of Boards expressing appreciation for presentation of Annual Reports.

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

7) **Budget Amendments**

The County Administrator presented the following Budget Amendments recommended for approval by the Director of Finance with justifications as indicated:

No. 93-53

Sheriff's Department

Transfer of funds from Corrections and Training to Law Enforcement in order to fund the additional costs of shift differential, supplies and materials such as film, flares, batteries, etc., maintenance of radio equipment and security cameras, vehicle maintenance, tires and gasoline (\$42,000)

No. 93-54

DECD

Offset shortfall in Pension account due to miscalculation during budget process. (\$1,395)

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Budget Amendments as presented. Motion carried.

PROCLAMATIONS

The Commissioners presented the following Proclamations:

National Insurance Week

Designating the week of May 10 -14

National Day of Prayer

Designating Thursday, May 6

ATTENDANCE AT SPECIAL OLYMPICS VISIT TO TECH CENTER HOUSE

The Commissioners left at 9:45 to attend the Special Olympics at Leonardtown High School and to visit the Tech Center student's house project at Wilderness Run.

EXECUTIVE SESSION

Commissioner Bailey moved, seconded by Commissioner Lancaster, to meet in Executive Sessions to discuss matters of Property Acquisition (FDR Boulevard and St. Mary's County Landfill), as provided in Article 24, Section 4-210(a)11; Litigation (status of litigation cases) as provided in Article 24, Section 4-210(a)8; and Personnel (Nursing Center Board), as provided in Article 24, Section 4-210(a)1. 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
Dan Ichniowski, Director, Public Works
Judith A. Spalding, Recording Secretary

(Commissioners Loffler and Lancaster did not participate in discussion of a particular right-of-way during this executive session.)

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

Topic: Property Acquisition - FDR Boulevard

Time Held: 11:42 a.m. - 12:10 p.m.

Action Taken: Mr. Ichniowski presented the alternatives regarding acquisition of property for the FDR Boulevard project and the Commissioners directed Mr. Ichniowski to proceed with the offer.

STAFF MEETING

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

EXECUTIVE SESSION

(Authorization previously given.)

Litigation

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
Joseph Densford, County Attorney
Judith A. Spalding, Recording Secretary

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

Topic: Litigation - Status of Litigation Cases (Drydens and St. Mary's Press)

Time Held: 2:45 p.m. - 3:00 p.m.

Action Taken: The County Attorney brought the Commissioners up to date regarding the status of legal cases involving the County. The Commissioners agreed to have correspondence drafted regarding the St. Mary's Press matter and agreed to action recommended by the County Administrator and County Attorney.

ACCOMMODATIONS TAX

Present: Joe Mitchell, Director, DECD
Tom Waring, motel owner
Charlotte Scheible, "
Ben Burroughs, "

As a follow up to previous discussion, Mr. Mitchell presented a memorandum regarding the inequity in per diem rates noting that Senator Mikulski's Office and Congressman Hoyer's Office have taken certain actions regarding the per diem rates and will advise the county as to progress on the matter. Further Patuxent River NAS has issued a formal complaint to GSA which will result in another survey of local accommodations and restaurants.

During discussion each of the referenced motel owners expressed their concerns regarding the impact of the inequities in the per diem rate and the added burden of the accommodations tax. Mr. Waring reiterated his request for the Commissioners to consider waiving the accommodations tax.

Discussion ensued among the Commissioners whether to waive the accommodations tax for 60 days in order to allow GSA to complete its review and survey.

County Attorney Joseph Densford entered the meeting and in response to an inquiry from the Commissioners, stated that since the Accommodations Tax was adopted through an Ordinance, any changes would require a public hearing.

After discussion Commissioner Bailey moved, seconded by Commissioner Jarboe, to take to public hearing consideration of waiving the Accommodations Tax. Motion carried three to two with Commissioners Loffler and Thompson voting against.

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director

1. Information Release

Also Present: Nancy Liberman, Recycling Coordinator

Mr. Ichniowski presented an Information Release announcing the employment of Nancy J. Liberman as Recycling Coordinator, effective March 29.

2. Recycling Program

Mr. Ichniowski presented a Recycling Grant Agreement between the Maryland Environmental Service and St. Mary's County for the construction of a yard waste composting facility and for the purchase of yard and wood waste recycling equipment in the amount of \$25,000.

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

3. Public Works Agreements

Mr. Ichniowski presented the following Public Works Agreements for the Commissioners' review and consideration:

Jenni's Dawn Section 4

Dated April 16, 1993 between Norris Pyles and St. Mary's County guaranteeing completion of Laura Court and Steven Court by March 1, 1994. The Agreement is backed by a Letter of Credit with County First Bank in the amount of \$92,000.

Pyles Estates

Dated March 25, 1993 between Norris Pyles, Raymond Woodburn and Great Mills Construction Company and St. Mary's County guaranteeing completion of Rickey Drive by March 1, 1994. The Agreement is backed by a Letter of Credit with International Fidelity Insurance Company in the amount of \$288,100.

Heard's Estates, Section 3

Dated November 20, 1992 between Quality Built Homes, Inc. and St. Mary's County guaranteeing completion of Brigantine Court and Clipper Drive by February 1, 1994. The Agreement is backed by a Letter of Credit with The Washington Savings Bank in the amount of \$163,900.

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

4. Correspondence Calling Letter of Credit

Mr. Ichniowski presented the following correspondence calling Letters of Credit for the Commissioners' review and approval:

Maryland International Raceway

To Security Bank Corporation calling Letter of Credit #SBC 1060 in the amount of \$22,000 for Grading Permit #92-40

Lighthouse Liquors

To Bank of Southern Maryland calling Letter of Credit #92-08 in the amount of \$10,000 for Construction Permit No. 06/92 ROW-02.

Commissioner Lancaster moved, seconded by Commissioner Thompson, to authorize Commissioner Loffler to sign the correspondence as presented to be forwarded if necessary. Motion carried.

EXECUTIVE SESSION

(Authorization for Executive Session previously given.)

Personnel

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
Judith A. Spalding, Recorder

(Nursing Center Board Members Present: Rose Slade, Chair; Wilmer Bowles, Harold Herndon, Frank Lawrence, Walter Szot)

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

Topic: Personnel (Nursing Center Board)

Time Held: 4:35 p.m. - 6:20 p.m.

(Nursing Center Members left meeting at 5:35 p.m.
Mrs. Slade, Mr. Bowles, and Mr. Cheseldine returned at 5:55 p.m.
Mr. Herndon and Mr. Lawrence did not return.
Mrs. Slade, Mr. Bowles, and Mr. Cheseldine left at 6:10 p.m.
Mr. Szot returned at 6:12 p.m.)

Action Taken: The Commissioners discussed with the Nursing Center Board membership of the Nursing Center Board. Subsequent to the Executive Session Mr. Szot submitted his resignation and the Commissioners accepted his resignation.

7:00 P. M.

**PUBLIC HEARING
PROPOSED ETHICS ORDINANCE AMENDMENTS**

Present: Charles Mander, Chair
John Gatton, Jr.,
Serita McFarling
Richard Portee

The Board of County Commissioners conducted a public hearing to present proposed revisions to the St. Mary's County Public Ethics Ordinance. The proposed revisions include additional definitions, clarification and additional requirements in the Financial Disclosure Statements.

After a presentation of the proposed amendments by Mr. Mander, the Commissioners opened the hearing for comments and questions from the audience.

Vernon Gray - Questioned whether the Board of Education and Sheriff should be included in the list of positions required to file financial disclosure forms.

Mr. Mander explained that they are state officials and are required to file state financial disclosure forms.

Vaughn McCall - Questioned whether state and county forms have been compared and which is more stringent.

County Administrator Cox explained that the revisions must have state approval prior to the Commissioners adopting the changes.

John Cummings - Questioned whether donations to a legal fund would come under the category of honoraria.

Mr. Mander responded that it could; however, each case would have to be decided on its own facts.

Paul Chesser - Presented a statement of position from the League of Women Voters supporting the addition of paragraph 6F2b to the Ordinance (which requires disclosure of partners, etc. having more than 5% interest). The League suggests that the requirement be amended to preserve confidentiality of the information, and also recommends a public working session on the ordinance.

Commissioner Thompson questioned Section 5,E,3 (page 8) regarding representation by a volunteer board member before a Board without compensation and suggested that an exception be granted rather than allowing it.

Leonard Greess - Requested reconsideration regarding Section 4J regarding exemptions and modifications to Sections 5 (conflicts of interest) and 6 (financial disclosures) if it would reduce availability of qualified persons for public service.

Mr. Mander stated that there were three requirements to be met for exemptions and modifications not just the one mentioned by Mr. Greess.

Grace Horton - Inquired as to the next step for the Ordinance.

County Administrator Cox advised that after at least ten days the Commissioners will begin deliberations on the recommended changes.

During discussion of the proposed requirement for disclosure of third parties, Mrs. McFarling indicated that it would be difficult for the Ethics Commission to take on the responsibility of monitoring because of lack of time and resources. She further stated that she believed that the Ethics Commission would open itself to a law suit.

Grace Horton indicated that candidates should be required to disclose business interests.

The public hearing was closed and the record will remain open for ten days for additional comments.

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

PUBLIC FORUM

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

Ken Hastings - Requested the Commissioners to rescind letter allowing municipal solid waste in that MDE was open to suggestions as to how to incorporate municipal solid waste to be allowed into landfills.

Vaughn McCall - Suggested that the Board of Education budget be presented in a more detailed manner as the County's is presented.

Cindy Cartwright - Suggested that the County not fund nonpublic school transportation and use that money towards public schools.

Mary Doherty - (1) Inquired as to status of report on medical waste at the landfill. Commissioner Loffler advised that the report has been completed but not yet received. (2) Whether wells are tested at landfill. County Administrator Cox responded that it is a requirement of the permit and the results can be forwarded to her. (3) Whether a state transfer station permit is required for a recycling station.

Larry Jarboe - Distributed photographs of Route 6 in the location of the FERST landfill, pointed out sedimentation and environmental problems and requested the Commissioners' assistance in protecting the community.

Al Moore - Attended meeting at FERST landfill on Tuesday, April 27 and stated that sedimentation controls are not working.

Larry Pinto - Re FERST Landfill and the possibility that MDE will change its definition of earthen ware to allow municipal solid waste.

Norman Haller - Requested Commissioners to assist in stopping the FERST landfill before it was too late and expressed concern about well water in the area.

Charles McLinton - Expressed concern about safety on Route 6 because of trucks in connection with the FERST landfill. Presented copy of letter dated April 21 denying request for the community to adopt a highway (Route 6) because it is a narrow road with no shoulders.

Joe Tolson
Scott Verbic
John Allen
Helen Harkins
Betty Baumgartner
William Smith
Kathy Swart
Ann Miller
Ford Dean
Terry Verbic
Deborah Dyson
Sydney Koranek
Mrs. Potter

Expressed concern regarding the situation at the Nursing Center; concern for the residents; concerned about losing dedicated employees; and the continuation of quality care to the residents.

The Board of County Commissioners acknowledged these concerns, described the Board's limitations for discussion because of confidentiality; and urged the employees and family members to allow the process of the investigation to continue, and for the employees to continue with their quality care to the residents.

The Nursing Center Board members also pointed out the confidentiality regarding the matter, reassured those present that the situation will be resolved as quickly as possible, and expressed willingness to talk to employees and family members.

Minnie Russell - In response to Mrs. Cartwright's concerns relative to the county funding nonpublic school transportation stated that after a meeting in the '80's it was determined to be less of a burden to the community to provide this transportation. She pointed out however, that there is a problem with duplicate routes

CONCLUSION

The public form concluded at 9:55 p.m.

Minutes Approved by Board of
County Commissioners on 5/11/93

Judith A. Spalding
Recording Secretary