

ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS
AUGUST 29, 1995

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Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
Aleck Loker, County Administrator
Judith A. Spalding, Recorder

CALL TO ORDER

The meeting was called to order at 9:00 a.m.

APPROVAL OF MINUTES

Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve the minutes of Tuesday, August 22, 1995 as corrected. Motion carried.

APPROVAL OF BILLS

Commissioner Chesser moved, seconded by Commissioner Jarboe, to authorize Commissioner Thompson to sign the Check Register. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: Aleck Loker, County Administrator

1) **New Agenda Format**

The County Administrator advised that as a result of discussion with the Commissioners the agenda for the September 5 meeting reflects the wish of the Commissioners to meet in the afternoons; the Commissioners could continue to come to the office in the morning to review information prior to the meeting.

The Commissioners concurred with the new format and agreed to do it on a trial basis in the month of September.

2) **Response Letter**
Clean Water Act Amendments of 1995

The County Administrator presented a letter addressed to Mr. and Mrs. Tom Jones responding to July 20 correspondence regarding the Clean Water Act Amendments of 1995. The return letter expresses the Commissioners concern for water quality in the County and the Chesapeake Bay.

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

3) **Response Letter**
Ferry Boat Service

The County Administrator presented correspondence in response to Bethany Germann's of August 15 regarding Mr. Tobin's ferry boat service to the Eastern Shore. The return letters indicates that the Commissioners are intrigued by the proposal and have requested Mr. Tobin to keep them informed.

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

4) **Department of Public Safety and Correctional Services
Child Sexual Offender Registration and Notification**

The County Administrator presented correspondence addressed to the Department of Safety and Correctional Services designating the St. Mary's County Sheriff's Office as the primary law enforcement unit responsible for child sexual offender registration and notification.

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

5) **Board of Education Grant Awards**

The County Administrator advised that correspondence dated August 24, 1995 was received from the Superintendent of Schools advising that grant award for "Dependent Care" was not included in the Approved Operating Budget for Fiscal Year 1996. The letter requests permission to incorporate this grant award into the '96 budget.

Therefore, County Administrator Loker presented return correspondence approving the inclusion of the grant award into the Fiscal Year 1996 budget.

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

6) **Categorical Transfers**

The County Administrator presented correspondence addressed to the Board of Education approving the following Categorical Transfers as recommended for approval by the Director of Finance:

- Category Transfer Request - Severance in Expenses (from fixed charges (\$88,572 to various categories)
- Category Transfer Request - Other (from categories which have excess funds to categories which have been overspent)
- Remaining balance after Category Transfers indicates balances available in other categories (estimated \$100,000 to be returned to the County).

During review of the categorical transfers, Commissioner Jarboe questioned the \$90,000 overage in electrical costs stating that a citizen informed him that the football field lights have been left on at Chopticon High School.

After discussion Commissioner Jarboe moved, seconded by Commissioner Chessser, to amend the letter to include a request for explanation of the \$90,000 overage in electrical expenditures and to sign the letter once amended. Motion carried.

7) **Budget Amendment No. 95-3
Department of Public Works**

The County Administrator presented the referenced budget amendment recommended for approval by the Director of Finance with the following justification: To provide funding for the Rosebank Court Taxing District (\$50,400).

Commissioner Jarboe moved, seconded by Commissioner Eagan, to authorize Commissioner Thompson to sign the Budget Amendment as presented. Motion carried.

8) **Project Independence Final Plan Concurrence
Grant Agreement**

Also Present: Mary Podmostko, JTPA

The County Administrator presented the referenced Project Independence Final Plan Concurrence which requires the President of the Board's signature.

Ms. Podmostko explained the "Welfare to Work" Program, which is in its sixth year of operation, stating that there have been significant changes in the intent of the program as well as the activities the state is encouraging. The changes, as implemented by the State Department of Human Resources, changes the emphasis from economic self-sufficiency, training, education, support to getting off welfare and getting a job. She stated that the change in emphasis is in response to the federal welfare reform initiatives, and although the local committee has expressed concern, it will make every attempt to make it work.

After discussion Commissioner Brugman moved, seconded by Commissioner Chesser, to authorize Commissioner Thompson to sign the Plan Concurrence as presented. Motion carried.

9) **Response Letter
Sign Ordinance**

The County Administrator presented correspondence in response to Walter Dent Burch's of August 20 relative to enforcement of the Sign Ordinance. The return letter indicates that the Commissioners expect the Department of Planning and Zoning to enforce the Zoning Ordinance as written and adopted.

Commissioner Chesser moved, seconded by Commissioner Eagan, to sign and forward the letter as presented. Motion carried three to two with Commissioners Brugman and Jarboe voting against.

During discussion of the letter Commissioner Eagan requested that during the next update of the Zoning Ordinance that the Commissioners review the sign ordinance to look at possible amendments.

10) **Gymnastic Center
Confirmatory Agreement**

On behalf of the Department of Recreation and Parks, the County Administrator presented a Confirmatory Agreement for the Gymnastics Center located at the old K-Mart building in Lexington Park. The Agreement, a follow-up document to the lease agreement with Patuxent Development Company which was approved on May 15, establishes the start date of the Center as August 20, 1995 and runs through August 31, 2000.

Commissioner Brugman moved, seconded by Commissioner Chesser, to sign the Confirmatory Agreement as presented. Motion carried.

11) **Appointment
Plumbing Board**

Commissioner Jarboe moved, seconded by Commissioner Brugman to reappoint B. I. Mattingly to the Plumbing Board and to sign the letter of appointment. Motion carried.

LOVERS POINT PROPERTY

Present: Phil Dorsey, Attorney
Dr. Fleury, property owner

Mr. Dorsey appeared before the Commissioners to express his concerns relative to the citizens' right to access the public landing at Lovers Point (Abell's Wharf). He gave the background of the property and displayed a 1947 Deed for the Abell's Wharf property, containing 40-60 acres at which location a public landing was created. A bar and restaurant was constructed on the property in the '30's/'40's on property that was owned by the County. During this time a county road was maintained to the public landing.

In 1952 the Greenwells conveyed to the County 75 feet of waterfront property, and Mr. Greenwell petitioned to swap the original public landing with the 75 foot parcel. Justification was that it was an impossibility to locate the landing. The community continued to use the original public landing site. The 1952 Deed between Greenwell and the County describes the public landing as being located between the tenant house and the old warehouse at Abell's Wharf (which was the new public landing established as a result of the transfer). The 1952 Deed states that the parcel of land that was condemned for use as a public landing and indicates that the exact location of the landing was "vague and uncertain." He pointed out however, that there had been an original survey.

The 40-acre tract was subsequently conveyed to the Langenfelders for a sand and gravel operation and then to Florida/Maryland Rock for a barge operation. In 1981 Maryland Rock constructed a chain link fence between the two parcels across a county-maintained road leading to the original landing site thereby obstructing access.

In 1994 Maryland Rock submitted a site plan to Planning and Zoning for a proposed mining operation at the Greenwell/Drury tract which had the landing and boat ramp on the plan. The Board of Appeals, which heard the case in January 1995, put conditions on the plan. Condition #20 states that "that the issue with regard to the County's rights regarding the use of the public landing at Abell's Wharf be resolved prior to any mining activity). The mining has begun and the issue not resolved. Mr. Dorsey indicated there was a question whether Maryland Rock had clear title to the property and requested clarification as to the citizens' rights with regard to the public landing since access to the public landing is impaired.

In closing Mr. Dorsey advised that he would be submitting a memorandum to the County Attorney requesting clarification as to responsibility of the Commissioners in instituting action to resolve or abate the obstruction to the waterway. He questioned whether the Commissioners in 1952 had statutory authority to divest themselves of the 1847 public landing, and if so, he requested clarification. He requested the Commissioners to take action to clear title so that citizens have right to access the water.

PUBLIC HEARING - PROPOSED ORDINANCE PARTICIPATION IN COUNTY GOVERNMENT'S PROCUREMENT SYSTEM

Present: William Marek, Health Officer
Mary Wood, Administrator

The Commissioners conducted a public hearing on a proposed Ordinance authorizing St. Mary's County Health Department to participate in St. Mary's County Government's Procurement System. Dr. Marek explained that the Health Department has participated in the County's system since 1988; however, Senate Bill 321, codified as Section 12-109 of the State Finance and Procurement Article of the Annotated Code of Maryland requires the local government to authorize by ordinance the local health department's use of its procurement system. Dr. Marek advised that if the Ordinance is not adopted the Health Department will automatically revert back to the State Procurement System on October 1, 1995.

The public hearing was opened for comment from the audience. Hearing none the public hearing was closed. The record will remain open for ten days for written comment.

RADIO COMMUNICATIONS STUDY

Present: Paul Wible, Director, EMA
Phil Cooper, Chair, Fire/Rescue Associations Communications Committee

The referenced individuals appeared before the Commissioners to advise that the Joint Fire and Rescue Associations Communications Committee has prepared an RFP for a Public Safety Radio Communications Study, which will be put out for bid within the next week to ten days. Funds for the study was approved in the Fiscal Year 1996 budget. Lt. Cooper advised that the study will look at current communications equipment, future needs, and recommendations for radio frequency and equipment. The study is projected to be completed within a 90-day period with project implementation, depending on available funding, in a three-year time frame. The Committee is looking to the federal and state governments for possible grant assistance for the project.

Mr. Wible advised that the Committee will keep the Commissioners informed as to the status of the project.

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director

1) Solid Waste Advisory Committee

Also Present: Melva Abell, Chair, SWAC
Larry Donmoyer, "
Ken Hastings, "
Bill Mattingly "
Tom Tudor, "

As a follow up to previous discussions the Solid Waste Advisory Committee appeared before the Board to present its recommendations relative to solid waste/tipping fees. During her presentation Ms. Abell made the following points:

- That the Committee was interested in looking at tipping fees in a broader sense, looking at a departure from landfills only (other means of disposal, recapturing revenue through recycling).
- Tag-A-Bag Program is a possible recycling initiative and should be handled by the Recycling Coordinator;
- Exportation of solid waste (which would affect revenues from tipping fees) and reduce landfill use.
- Dwight Mildren has submitted a Minority Report;
- Other issues of solid waste management and tipping fees should be handled through a SWAC subcommittee; requested up to six months to report to the Commissioners.
- SWAC recommended \$47 per ton tipping fee, which should cover the operating costs; charge \$25 per house for transfer station stickers.

In closing the Commissioners agreed to put in writing the charge to the Solid Waste Advisory Committee/Subcommittee.

2) **Ordinance No. 95-39
Mulberry South Taxing District**

As a follow up to the August 15 public hearing, Mr. Ichniowski presented an Ordinance establishing a special taxing district for improvements to Philip Lane and Helen Lane in Mulberry South Subdivision.

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and sign Ordinance No. 95-39 as presented. Motion carried.

3) **Correspondence
Delegation of Sediment and Erosion Control Authority**

Mr. Ichniowski presented correspondence in response to Maryland Department of Environment's letter of August 8, 1995 relative to the delegation of Sediment and Erosion Control Authority. The letter indicates that the Commissioners do not believe that the benefits of local delegation are worthy of additional local administrative costs at this time.

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

4) **Addendum to Public Works Agreement
Piney Point Landings**

Mr. Ichniowski presented a Public Works Agreement between Potomac Land Ltd. and the Board of County Commissioners of St. Mary's County extending the deadline for completion of improvements to December 1, 1995. The Addendum is backed by a reduced Letter of Credit with First National Bank of St. Mary's in the amount of \$25,000.

Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign the Addendum as presented. Motion carried 4-0-1 with Commissioner Eagan abstaining because she is on the Board of Directors of First National Bank of St. Mary's.

SHIPPING POINT PROPERTY - STATUS REPORT

Present: John Colton, Colton heir

Mr. Colton appeared before the Commissioners to explain his efforts in getting the State to allocate the \$700,000 endowment to a senior housing project in St. Mary's and to request the Commissioners' assistance in the establishment of a non-profit foundation to administer the funds. The Shipping Point property was a donation from the will of the late Bruce Colton with the understanding that it be used for a senior housing project; however, the property was deemed unsuitable for a housing project. After negotiations, the State agreed to allocate the endowment to support a senior housing project in the County rather than the previous decision that the State retain the funds for senior housing projects for residents of Maryland with priority given to St. Mary's.

During his presentation Mr. Colton indicated that the non-profit corporation, which would administer the state funds would be called the Richard and Ophelia Colton Foundation for the Elderly.

In conclusion the Commissioners indicated concurrence that Mr. Colton work with the Director of the Office on Aging and the County Attorney in establishing the foundation.

PRESENTATION DIRECTOR OF FINANCE WADE

The Commissioners presented a Commendation with a County Seal to Charles Wade, Director of Finance, who is leaving St. Mary's County Government.

COUNTY COMMISSIONERS' TIME

Recycling Percentage

Commissioner Jarboe announced that the State's requirement for recycling is 15% and St. Mary's County is now at 19%. He advised that the County has recently hired its new Recycling Coordinator and that she has placed recycling buckets in all offices for office paper recycling.

Public School SAT Scores

Commissioner Jarboe announced that the St. Mary's County public school students' SAT scores have increased.

EXECUTIVE SESSION

Commissioner Chesser moved, seconded by Commissioner Eagan, to meet in Executive Session to discuss a matter of Personnel (Boards, Committees, Commissions), as provided in Article 4-210(a)1. Motion carried three to two with Commissioner Brugman and Jarboe voting against.

Commissioner Eagan moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss a matter of Personnel (Director of Finance Position), as provided in Article 4-210(a)1. Motion carried three to two with Commissioner Brugman and Jarboe voting against.

Personnel

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
Aleck Loker, County Administrator
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1
Time Held: 12:10 p.m. - 12:40 p.m.

Action Taken: The Commissioners discussed the Director of Finance position and gave direction to the Personnel Officer.

Personnel (Boards Committees, Commissions)

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
Aleck Loker, County Administrator
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1
Time Held: 12:40 p.m. - 12:50 p.m.

Action Taken: The Commissioners reviewed the current status sheet, made nominations, directed staff to contact the nominees and prepare appropriate letters for their signatures.

SPACE NEEDS TASK FORCE

Present: Ford Dean, Chair, Space Needs Study Task Force
Judge John Hanson Briscoe, "
Judge Marvin Kaminetz, "
Walter Dorsey, State's Attorney, "
James McKay, "
Phil Cooper, "

As a follow up to the August 22 public hearing, the referenced representatives of the Space Needs Study Task Force appeared before the Board to respond to comments made at the August 22 public hearing regarding the Task Force's recommendations to build a judicial center at the governmental center property.

- That the total proposal had a projected cost of \$23M to be accomplished over a multi-year program, with each phase to be considered separately in accordance with available funding.
- That the impetus to initiate the study was the critical need of the judiciary;
- That the County has a space need shortage of 34,000 s.f.
- That the County's population ratio with county employees is less than Calvert and St. Mary's
- All meetings of the task force were held in open session;
- That the Leonardtown Commissioners had been in unanimous agreement with the Task Force's recommendations.
- That the Task Force was in unanimous agreement with the recommendations.
- That the Task Force believed it would be a mistake to add on to the present courthouse because of apparent limitations of the site.

Each of the members of the Task Force present spoke in support of moving the judicial center to the governmental center pointing out the current critical conditions and the need for accommodating a third and fourth circuit court judge.

In response to an inquiry from Commissioner Eagan, Judges Kaminetz and Briscoe pointed out why night court would not be feasible, citing the need for additional staff, adequate space, and security. Judge Kaminetz noted there is no night court in any circuit court in Maryland, that District Court (traffic violations) was the only court with night court.

In conclusion Mr. Dean offered the assistance of the Task Force to the Commissioners in their deliberations on this issue.

MYRTLE POINT PROPERTY

Present: Mary Pat Pope, Administrative Officer
Doug Durkin, County Attorney
Jon Grimm, Director, DPZ
Phil Rollins, Director, R&P
Larry Petty, Director, MetComm
Joe Mitchell, Attorney, MetComm

As a follow up to previous discussions and presentations Ms. Pope facilitated discussion to assist the Commissioners in arriving at a tentative decision on the possible acquisition of Myrtle Point property. She presented three main questions for the Commissioners to address in making a determination whether to proceed:

- Does it merit an active county role in its preservation?

After discussion of the issues (recreational opportunities, inventory of county parkland, environmental issues; planning and zoning issues, etc.) the Commissioners indicated concurrence that the County does have a role in its preservation. (Commissioner Brugman did not concur and indicated he was waiting for additional information.)

- If yes, for what general purpose (park; conservation of open space)?

It was the consensus of the Commissioners that the purpose would be a useable park, with both active and passive recreational opportunities, and that they did not want to reserve the site for complete conservation of open space.

- How much land should be acquired for this purpose?

It was the consensus of the Commissioners to not take action on this issue at this time

- Financial Considerations:

The Commissioners indicated concurrence that the acquisition be limited to Program Open Space Funds, as well as other state and federal support; (that no county general fund or bond money be used for the project or development/upgrade of MetComm's facilities.

- Legal Issues:

County Attorney Durkin advised that the transfer of title of the property to Resolution Trust Corporation (RTC) has been delayed as a result of the Special Trustee's prior failure to fully comply with the Federal Historic Preservation Act. He further advised that there were other issues requiring a significant amount of research before he could give definitive advice.

Mr. Durkin recommended that the Commissioners include the following contingencies if they pursue acquisition:

- Receipt of adequate title insurance;
- Opinion from County Attorney as to adequacy of title insurance and title report;
- Upon no obligations being owed to third parties for completion of water and sewer facilities and provision of w/s services along the existing right-of-way.
- Upon MetCom receiving adequate title to the existing w/s lines at no cost to the County or MetComm.
- Any other contingencies that the Commissioners deem to be necessary or prudent as the facts and liabilities unfold.

The County Administrator recommended that the Commissioners authorize the Director of Recreation and Parks to engage the services of Trust for Public Lands to represent the County in negotiations for the purchase of the property on the terms and conditions accepted by the Commissioners. The Director of Recreation and Parks will present the contract with Trust for Public Lands to the Commissioners for approval.

PUBLIC HEARING

All Commissioners were present, as was County Administrator Aleck Loker. DPZ staff present were Jon Grimm, Director; Harry Knight, Code Coordinator; and Peggy Childs, Recording Secretary.

A list of attendees is on file in DPZ.

Commissioner Thompson called the meeting to order at 7:00 p.m.

1993 BOCA & 1992 CABO 1&2 FAMILY DWELLING CODE (Maryland Building Performance Standards)

Proposed adoption of an ordinance superceding #94-08 for the above building codes, mandated by State law, with local modifications.

Also present: Rob Smith, Steve Dale & Chuck Bryson, MDIA
Pat Mudd, BOCA Appeals Board
Rudy Baliko, Agriculture & Seafood Commission
Donnie Tennison, Agr. & Seafood Commission

Legal Ad published in The Enterprise on 8/2/95 & 8/9/95.

Mr. Grimm explained that the Maryland Building Performance Standards mandate that the 1993 BOCA and 1990 CABO Codes be adopted across the State by August 1, 1995. The purpose of this hearing is to receive public comment on the proposed local modifications to the codes. The modifications were enumerated and Rob Smith, of MDIA, offered a slide presentation highlighting the differences between the 1990 and 1993 BOCA Code and the 1989 and 1992 CABO Code.

Of concern to the Commissioners were the following issues:

- (1) That the proposed codes not generate significant cost/time increases.
- (2) Fines (set by the CCRS and modified at their discretion).
- (3) Floor plans for residential structures (voluntary submission).
- (4) Permit exemptions for sheds and other detached structures.
- (5) Proposed agricultural exemptions.
- (6) Proposed construction licensing program.
- (7) Plumbing exemptions.

Following discussion on these items by the Commissioners, Commissioner Thompson opened the hearing to public comment. The comments/questions were as follows:

Donnie Tennison - Supports agricultural exemptions.
David Hertzler - Problems with pre-built sheds passing inspections.
Donald Birch - Lack of response from DPZ regarding shed permit.
Joseph Stoltzfus - Increase plumbing exemptions from \$200 to \$1,000.
Doug Ritchie - Concerns regarding plumbing permit requirements.

A great deal of the public comment portion centered around sheds. Many people are having problems with the pre-built sheds purchased from Mr. Hertzler and others in the Mennonite community passing inspection. Mr. Knight will prepare a Customer Handout advising of inspection requirements as part of an Education Outreach in this regard.

Donald Birch related his difficulty ascertaining from DPZ what is required for his shed to pass a building inspection. Discussion revealed that Mr. Knight had written to Mr. Birch, but Mr. Birch contended that he still does not know what he needs to do to get his permit.

Following the presentation and public comment, Commissioner Thompson closed the public hearing. The record will remain open for 10 days for written comment. As discussed, staff will address the following and provide information to the Commissioners prior to their decision:

- (1) Administrative procedure for plans review.
- (2) Problems with pre-built sheds; survey of which and how other counties handle exemptions for this kind of detached structure.
- (3) Survey of which and how other counties handle agricultural exemptions.
- (4) Revise threshold for plumbing exemption; ask Plumbing Board for guidance and recommendation.
- (5) Licensing program; Commissioner Eagan suggests this be added to the Ordinance after the program is set up.

ADJOURNMENT

The meeting adjourned at 9:15 p.m.

Minutes Approved by Board of
County Commissioners on 9/5/95

Judith A. Sadding
Recording Secretary