

ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS
JANUARY 2, 1996

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

(Commissioner President Barbara R. Thompson was not present at the beginning of the meeting because of the death of her father.)

CALL TO ORDER

The meeting was called to order at 1:00 p.m.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve the minutes of Tuesday, December 19, 1995 as corrected. Motion carried.

APPROVAL OF BILLS

Commissioner Jarboe moved, seconded by Commissioner Eagan, to authorize Commissioner Vice-President Chesser sign the Check Register. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: Aleck Loker, County Administrator

1) **Response Letters**

The County Administrator presented the following response letters for the Commissioners' review and consideration:

- To Hughesville Cardiacs regarding request for funding for establishment of a new girls Junior Olympic Amateur Softball team in Southern Maryland.
- To Attorney Michael V. Davis regarding traffic signalization at the intersection of Mattapany Boulevard and Great Mills Road
- To Maryland Bank and Trust Company concerning Letters of Credit and bonding for subdivision work covered by Public Works Agreements
- To Capt. Bruce Sheible regarding Tourism Specialist

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

2) **Correspondence**

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

- To Board of Education approving inclusion of Grant Awards in Fiscal Year 1996 Budget

Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve and sign the letter to the Board of Education as presented. Motion carried.

- To Becky Stevens approving revised bylaws for the St. Mary's Interagency Children's Committee
- To F. Elliott Burch, Jr., approving bylaws for Development Review Forum
- To Vivian A. Betton approving bylaws for Commission on Aging.

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

3) **Boards, Committees, Commissions**

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

Economic Development Commission

To Jon Grimm advising that the Commissioners will not be selecting a Planning Commission member to serve on the Economic Development Commission

Housing Authority

- To Robert Gant thanking him for his service on the Housing Authority;
- To Howard Burch appointing him to the Housing Authority.

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

4) **Legal Holiday Schedule**

The County Administrator presented the Legal Holiday Schedule for Calendar Year 1996 and requested the Commissioners' approval of the schedule with the caveat that it is subject to change. He advised that the Efficiency Task Force is reviewing the County's benefit package including the holidays and will be making recommendations to the Commissioners.

Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve the Calendar Year 1996 Holiday Schedule with the understanding that is subject to change. Motion carried.

5) **Rental Allowance Program Application for Fiscal Year 1996**

On behalf of the Department of Economic and Community Development, the County Administrator presented the referenced Rental Allowance Program Application for Fiscal Year 1996. He advised that the State has invited St. Mary's to participate in the tenth year of housing assistance funded through this program, and the County's application for FY '96 is \$53,210.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Vice President Chesser to sign Application as presented. Motion carried.

6) **Resolution No. Z96-01
Text Amendments to Zoning Ordinance**

As a follow up to the December 19, 1995 public hearing, the County Administrator presented the referenced Resolution amending Zoning Regulations for St. Mary's County, specifically Section 61.7 (regarding enforcement and prosecution of zoning violations) and Section 62.1 (regarding exemption from building permit requirements).

After discussion Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and sign Resolution No. Z96-01 as presented. Motion carried.

7) **Supplemental Appropriations for Fiscal Year 1996**

Also Present: Steve Welkos, Director of Finance

Ordinance No. 96-01
Library Board of Trustees

The Commissioners conducted a public hearing on December 12, 1995 to consider a supplemental appropriation of \$11,970 from the Library Fund Balance to the Board of Library Trustees for recurring operating costs as a result of the Charlotte Hall Library expansion; therefore, Mr. Welkos presented the referenced Ordinance approving the supplemental appropriation.

Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and sign Ordinance No. 96-01 approving the supplemental appropriation to the Library Board of Trustees. Motion carried.

Ordinance No. 96-02
Blue Cross/Blue Shield Refund

The Commissioners conducted a public hearing on December 12, 1995 to consider a supplemental appropriation of \$111,000 from the County General Fund balance to refund to County employees their share of health insurance premium refund received by the County for the July 1, 1993 - June 30, 1994 settlement period; therefore, Mr. Welkos presented the referenced Ordinance approving the supplemental appropriation.

Commissioner Jarboe moved, seconded by Commissioner Brugman, to approve and sign Ordinance No. 96-02 approving the supplemental appropriation to the Library Board of Trustees. Motion carried.

8) **Information Releases**

The County Administrator presented the following Information Releases for distribution:

- Holland Forest Landing - Homeownership Program (Information Release/Public Service Announcement)
- Election Registration Information
- Program Open Space Grant for enhancement of Fifth District Park (\$307,000)
- Southern Maryland Wood Treatment Plan - EPA furlough action

ECONOMIC DEVELOPMENT COMMISSION/CHAMBER OF COMMERCE

Present: Brian Clarke, Chair, EDC
F. Elliott Burch, Jr.
Joe Gough
Cheryl Ahearn
Ann Marum, Director, Chamber of Commerce

The referenced individuals appeared before the Commissioners to discuss the future of economic development and the need for adequate professional staff to carry out the mission of economic development in the community. The referenced individuals each spoke to the need of economic development efforts in the county in relation to the Navy's presence and its expansion, as well as for non-defense related businesses. Mr. Clarke indicated concern recent discussions by the Commissioners and the Efficiency Task Force regarding DECD staff. He stated that although volunteers have played an important role, professional staff of DECD is needed to help to diversify and to strengthen the county's economic base, and that it was important for the Commissioners to fill the Director of DECD and the Economic Development Coordinator positions

After discussion, the Commissioners thanked the EDC and Chamber representatives for their presentation and indicated they would keep their comments in mind.

COUNTY ATTORNEY

Present: Doug Durkin, County Attorney

1) **Airport Commission
Ordinance Amendment**

Mr. Durkin recommended amending the Ordinance establishing the Airport Commission which would alter the function of the Airport Commission by removing its management and operational functions and convert it to an advisory board. The amendment would further delete the staff support requirement as it would not longer be needed once the management functions are deleted. County Attorney Durkin requested authority to proceed with advertising for a public hearing on the proposed amendments.

During discussion Mr. Durkin indicated he would request a formal recommendation from the Airport Commission.

Commissioner Eagan moved, seconded by Commissioner Brugman to authorize the County Attorney to publish a Notice of Public Hearing to amend the Ordinance changing the Airport Commission to an advisory board. Motion carried.

Commissioner Brugman moved, seconded by Commissioner Jarboe, to request the Airport Commission to review the proposed amendments and submit comments to the Commissioners. Motion carried.

2) **Procurement Policy
Volunteer Fire Departments**

In that Commissioner Thompson was not present and the fact that she had some concerns regarding this issue, the County Attorney recommending deferring this issue until next week.

The Commissioners gave their concurrence.

3) **Resolution No. 96-03
Procurement Policy
Personal Services Contract**

County Attorney Durkin recommended deleting the provision in the County's Procurement Policy which requires the County Attorney to review and approve justification for personal service contracts. He pointed out that four other staff members are required to sign the contracts and there are not legal issues involved in the justification process. It is a managerial issue and the County Attorney's signature is not needed. Therefore, Mr. Durkin presented a Resolution amending the Procurement Policy as referenced.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve and sign Resolution No. 96-03 amending the Procurement Policy as recommended. Motion carried.

COUNTY COMMISSIONERS' TIME

CABO/BOCA Code - Plumbing Board

Commissioner Brugman indicated that when the Commissioners approved the CABO and BOCA Codes, the recommendation to raise the \$200 threshold for plumbing to \$1,000 was postponed until the Plumbing Board had had an opportunity to review it. He pointed out that it has been two months and no comments have been received from the Plumbing Board on this issue.

County Administrator Loker was requested to look into this issue and report to the Board.

Executive Sessions

Commissioner Eagan referred to a recent article in the Enterprise about the number of executive sessions the current board of commissioners had held in 1995. She pointed out that most of them have been litigation issues, particularly the Airport issues, which were carried over from the previous board.

Judicial Center/Courthouse

Commissioner Jarboe, because of concerns he has heard about the judicial center and the bonding authority for the courthouse renovation project, requested the County Administrator to contact the Department of Public Works to get a cost estimate to divide the current courtroom at the courthouse to accommodate a third judge. He pointed out that if in later years it was determined there was a need for a fourth judge and additional space, the issue of a judicial center could be revisited.

Calvert County Transfer Station

Commissioner Jarboe inquired as to the status of Calvert County's proposal for disposal of solid waste, the County's request to be included, and the expiration of the county's permit for expansion of the St. Andrews Landfill. The County Administrator will contact Director of DPW for a status report.

Higher Education Board

Commissioner Eagan announced that as of this past summer she was no longer a member of the Higher Education board as had been reported in a local paper.

MYRTLE POINT PROPERTY

Present: Doug Durkin, County Attorney

Commissioner Jarboe moved, seconded by Commissioner Brugman, to withdraw from the Agenda the Executive Session for discussion of Property Acquisition (Myrtle Point) in that the Commissioners had never met in executive session on this issue before. Motion defeated two to two.

During discussion of the motion, County Attorney Durkin advised that he requested an Executive Session on the issue to bring the Commissioners up to date on negotiations to acquire the property and to discuss certain title problems which could result in litigation. He referred to the motion adopted by the Commissioners relative to the acquisition of Myrtle Point and that the County would be using the Trust for Public Lands to act as the County's agent; however, there was a question of the role the Trust would play and whether the County would have to have an RFP for an agent.

Commissioners Brugman and Jarboe expressed concern about public perception of meeting in Executive Session and the accusations that the County has been involved in "back door" negotiations.

Mr. Durkin pointed out that he had been provided certain information from the Trust for Public Lands but that Trust representatives had not been given the authority to release the information. However, he indicated to the Trust that he receives his direction from the Commissioners and that he could be required to discuss the information in public.

After some discussion Commissioner Eagan moved, seconded by Commissioner Jarboe, to discuss the issue of acquisition of Myrtle Point in public. Motion carried.

Mr. Durkin advised the Commissioners that the property was advertised for sale in *The Federal Register* and the Trust for Public Land executed a contract with RTC to acquire Myrtle Point, terms and conditions of which are confidential and will not be released. The Trust has

offered to sell 200 acres of the property (the point) to the County. The County has 90 days from December 27 to indicate an intent to acquire the property and inquired whether the Commissioners wished the Trust to act as its agent or to submit a Letter of Intent on its own.

Because of the issue of the role the Trust would play with the county, the Commissioners requested the County Attorney to get additional information prior to the Board making a decision.

Later in the meeting Mr. Durkin received and presented a Press Release from the Trust for Public Land advising that it has signed a contract with RTC to purchase the 502-acre Myrtle Point property, and that it would be "working with the County and State to facilitate the transfer of the 200-acre peninsula to St. Mary's County as quickly as possible."

EXECUTIVE SESSIONS

Present: Doug Durkin, County Attorney

Litigation

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

Personnel

Mr. Durkin spoke to the Attorney General's Opinion of December responding to the County's inquiry regarding the Open Meetings Law and its application for discussion of personnel items in Executive Session. Attorney Durkin referred the Public Information Act and its relation to the Open Meetings Law and recommended that the Commissioners not discuss personnel items of employment, job applicants or appointments in Open Session because of risk management and the avoidance of possible law suits. He suggested that the Commissioners should not expose the County to being a test case on the privacy issue.

After discussion Commissioner Jarboe moved, seconded by Commissioner Eagan, to meet in Executive Session to discuss matters of Personnel (Office on Aging; Airport Manager; and Consideration of Appointments to Boards, Committees, Commissions), as provided in Article 24, Section 4-210(a)1. Motion carried.

(Commissioner Thompson entered the meeting - 4:20 p.m.)

Litigation - The Skydiving Center

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
Doug Durkin, County Attorney
James Haley, Airport Manager
Bil Chen, Attorney from LGIT
Judith A. Spalding, Recorder

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

Time Held: 4:20 p.m. - 5:00 p.m.

Action Taken: The attorneys brought the Commissioners up to date relative to the referenced legal matter including settlement negotiations.

Personnel (Airport Manager)

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
Doug Durkin, County Attorney
Bil Chen, Attorney from LGIT
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1
Time Held: 5:00 p.m. - 5:35 p.m. and
6:10 p.m. - 6:15 p.m.

Action Taken: The Commissioners discussed the Airport Manager position and directed staff to prepare options for commissioners' consideration.

Personnel (Office on Aging)

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
George Foster, Personnel Office
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1
Time Held: 5:35 p.m. - 6:10 p.m.

Action Taken: The Commissioners discussed a personnel issue relative to the Office on Aging and gave direction to the Personnel Officer

(Commissioner Thompson left the meeting at 6:00 p.m.)

(Commissioner Eagan left the meeting at 6:15 p.m.)

Personnel (Consideration of Appointments to Boards, Committees, Commissions)

Present: Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Lawrence D. Jarboe
Aleck Loker, County Administrator
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1
Time Held: 6:15 p.m. - 6:40 p.m.

Action Taken: The Commissioners reviewed the current Status Sheet, made nominations, and directed staff to prepare appropriate letters of appointment for consideration at a future meeting.

7:00 P. M.

**PUBLIC HEARING
ABANDONMENT OF TRIANGLE DRIVE**

Present: Dan Ichniowski, Director, Department of Public Works

The Commissioners conducted a public hearing regarding the realignment of approximately 250 feet of existing Triangle Drive and abandoning approximately 650 feet of existing Triangle Drive in conjunction with the Food Lion Development. Triangle Drive is located in Charlotte Hall in the Fifth Election District.

Mr. Ichniowski read the notice of public hearing which was published in The Enterprise December 13, 20 and 27, 1995.

During his presentation Mr. Ichniowski displayed a map of the property and explained the proposed realignment, which a study indicated would better serve the traffic in the area.

The hearing was opened for comments from the audience.

Dorothy Major questioned as to what would happen to the road once it was abandoned and how it would tie into her driveway. Mr. Ichniowski replied that the driveways would be extended to the new road and the abandoned area will be seeded.

Hearing no further comments, the public hearing was closed. The record will remain open for written comment until January 12, after which the Commissioners will make a decision.

PUBLIC FORUM

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

Kenneth Guy - Expressed concern about the Vision Quest camp for boys proposal to be located in Loveville and requested that the County proceed with caution during the process. The camp, which will house 66 troubled youth between the ages of 12 and 18 in tents, will be surrounded by woods on three sides with no barriers. Mr. Guy requested permission to distribute his comments on the proposal; however, County Attorney Durkin recommended that the Commissioners not accept the documents pointing out that the presentation should be made to the appropriate party, the Board of Appeals, which will be hearing the case Conditional Use case.

Larry Pinto - Questioned the County Attorney's recommendation stating that a citizen should be allowed to provide information to the Commissioners that will be going before the Board of Appeals and not the Commissioners. He further inquired whether the Commissioners or citizens could make comments on these types of issues. County Attorney Durkin indicated that the Commissioners are citizens and can appear as citizens at a Board of Appeals hearing.

Daphne McGuire - Referred to the FERST application before the Board of Appeals and the situation that developed because the Commissioners were not always kept informed. She was of the opinion that the Commissioners should be able to receive information from a citizen.

During discussion of the Conditional Use Application to the Board of Appeals for the Vision Quest project and the process involved, Commissioner Eagan indicated that the Commissioners should be aware of what is going on in a community they represent.

Tom Bowles (former member of Board of Appeals and resident of Loveville) - Explained the Board of Appeals process stating that any appeals go before the Circuit Court and there is no involvement by the County Commissioners. He expressed concern that the project has been underway for approximately a year and he had just recently learned about it through a registered letter. Relative to the Board of Appeals he noted that there was difficulty in getting a quorum and that alternates were not always familiar with the cases before the Board. He suggested that the Commissioners look into this.

Doug Ritchie - Expressed criticism of the Economic Development Commission's/ Chamber of Commerce's presentation earlier in the day regarding the importance of economic development in the County. He felt that the group unwarrantedly boasted of its achievements.

Leonard Greess - Reiterated his concerns relative to the County's November 14 letter to PRA and the December 12 letter to him in response to his comments from the December Public Forum. He indicated that he had taken exception to the manner in which the Commissioners had described Mr. Oran Wilkerson and himself relative to PRA negotiations and that he believed the letter to be inflammatory. Mr. Greess went on to give his personal opinions and reactions to the letters, and the fact that he was not a representative of PRA during the negotiations between the PRA and the County in meeting Judge Rhymer's Order relative to the Parcel of Record case. He further noted that neither the November 14 or the December 12 letters discussed or rebutted any of his observations, and he suggested that in the absence of a retraction or an apology, which he still would like to have, that he expected the Commissioners to respond to the unanswered questions.

ADJOURNMENT

The meeting adjourned at 8:35 p.m.

**Minutes Approved by Board of
County Commissioners on 1/9/96**

Judith A. Spalding
Recording Secretary