

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
AUGUST 27, 1996**

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

CALL TO ORDER

The meeting was called to order at 1:05 p.m.

APPROVAL OF MINUTES

Commissioner Eagan moved, seconded by Commissioner Chesser, to approve the minutes of Tuesday, August 20, 1996, as presented. Motion carried.

APPROVAL OF BILLS

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

ADDITIONS/DELETIONS TO AGENDA

Commissioner Chesser moved, seconded by Commissioner Eagan, to add the following to the Agenda: two executive sessions on Personnel; executive session on Personnel/Potential Litigation; to add a presentation on Lexington Park Senior Apartments - tax credit program; and to discuss the Personnel Policies Changes in Open Session rather than executive session. Motion carried.

FOLLOW UP TO AUGUST 20, 1997 EXECUTIVE SESSIONS

The County Administrator presented a briefing on the executive sessions that were held on August 20 (Personnel - Health Officer; Personnel - Amendment to County Administrator; Personnel - Classification Appeals; and Personnel/Potential Litigation). Mr. Kachmar further provided a clarification regarding the Commissioners' action regarding the animal control program, stating that the RFP has not been denied, but that there were ordinance amendments and budgetary considerations that need to be addressed prior to revisiting the issue.

Classification Appeals

As a follow to an August 20, 1996 Executive Session, Commissioner Brugman moved, seconded by Commissioner Chesser, to approve the classification appeals as discussed in Executive Session. Motion carried.

CONSENT AGENDA

The Consent Agenda included the following documents:

Correspondence

1. To Dana Davis, Chair, Commission on Aging indicating the Commissioners' approval of the revised by-laws.
2. To J. Frank Raley give assurance that county will attend future meetings of the Regional Infrastructure Advisory Committee meeting.

3. To Donald McGarity regarding the road extension leading to the new retirement village in Wildewood.
4. To President of Hildrup Moving and Storage regarding access to Maryland State Route 235 by his business.
5. To Dale Dean acknowledging his letter regarding natural gas license testing and advising that the issue is being researched. P. Glockner Shultz responding to her suggestion regarding the zoning of the area between Route 4 and North Town Creek Drive as Commercial.
6. To R. J. Butler appointment him to the Standing Committee for Wicomico Shores - Privatization Issues.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve the Consent Agenda, as presented. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: John J. Kachmar, County Administrator

1) **Request for Authorization of Systems Manager Position**

The County Administrator presented a memorandum from the Personnel Officer indicating that the Management Information Systems position was included in the FY '97 budget. An MIS committee was established and has established job requirements for the position. The position has been classified as a Grade 16. County Administrator Kachmar reviewed the hiring procedures for the position: establishment of a committee; create written questionnaire; formal interviews; reference/background check; and hiring of best candidate. He further indicated that staff would seek the Commissioners' concurrence in the individual selected by the committee.

The County Administrator requested the Commissioners to authorize the establishment, advertising and filling, through the competitive hiring process, of a Grade 16 Management Information System Manager at a salary range of \$44,944 to \$52,029.

Commissioner Chesser moved, seconded by Commissioner Eagan, to authorize the establishment, advertising and filling, through the competitive hiring process, of a Grade 16 Management Information System Manager at a salary range of \$44,944 to \$52,029. Motion carried.

1) **Walden/Sierra, Inc.
Services for Victims of Crime**

Also Present: Jean Hoffman, Walden/Sierra, Inc.

Grant Renewal Application for Services for Victims of Crime which will provide community based services for victims of domestic violence and sexual assault and victims of child abuse and child sexual abuse/assault. The Grant period is from December 1, 1996 through September 30, 1998. (No County Funds)

During discussion Commissioner Thompson referred to funds appropriate by the County Commissioners for a pilot study regarding community-based housing and requested information on the results of that study. Ms. Hoffman responded that she would have that information provided to the Commissioners.

Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Services for Victims of Crime Grant Application as presented. Motion carried.

2) **Budget Amendment No. 97-5
Department of Public Works**

Justification: To provide funds for traffic sign installation at Maryland Route 235
(\$20,618)

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

3) **Information Release
County Health Officer**

The County Administrator presented an Information Release regarding the impending retirement of Dr. William Marek, County Health Officer, explaining the Commissioners' function as the Board of Health, and explaining that a process will be established for the development of nominees for his replacement.

The Commissioners authorized the distribution of the Information Release.

LEXINGTON PARK SENIOR APARTMENTS

Present: Cliff Singleton, BNG Partners, Inc.
Dennis Nicholson, Deputy Director, Housing

Mr. Singleton appeared before the Commissioners to explain the 74-unit senior apartment project and that he is seeking to use the federal low income housing tax credit program. He reviewed the rent structure (which is based on income levels), and the various amenities, and advised that the project will be located on Pegg Road in Lexington Park.

In closing Mr. Nicholson pointed out that the Housing Authority Board will assess the proposal for participation in the tax credit program and will submit comments to the Board of County Commissioners. Subsequently, the developer will need a letter of support from the County Commissioners in order to satisfy the requirements of the tax credit application.

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director, DPW

1) **Addenda to Public Works Agreements**

Essex South, Section 4B and 4C

extending the deadline for completion to June 1, 1997 (Maryland Bank and Trust - \$64,200)

Cedar Cove, Section 5

extending the deadline for completion to August 1, 1997 (NationsBank - \$353,000)

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

2) **Acceptance of Deeds**

Indian Creek Manor Subdivision, Section 2, Fourth Election District
Creek Lane

Jenni's Dawn Subdivision, Section 1, Fifth Election District
Shannon Court and Christopher Court

Commissioner Jarboe moved, seconded by Commissioner Chesser, to accept and to authorize Commissioner Thompson to sign the Deeds as presented. Motion carried.

3) **Road Resolutions**

Indian Creek Manor Subdivision
R96-19 - Designating Creek Lane as a Stop Street
R96-20 - Posting Creek Lane at 25 miles per hour

Jenni's Dawn Subdivision
R96-21 - Designating Christopher Court as a stop street with Md. Route 6
Designating Shannon Court as a stop street with Md. Route 6
R96-22 - Posting Christopher Court and Shannon Court at 25 miles per hour.

Smith's Nursery Road, Sixth Election District
R96-23 - Designating western portion of Smith's Nursery Road as a Stop Street at its intersection with Ingleside Road.

Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Road Resolutions as presented. Motion carried.

4) **Chestnut Hills Subdivision**

Commissioner Eagan referred to road problems in Chestnut Hills Subdivision, and Mr. Ichniowski advised that he will be meeting with the developer regarding these problems. He pointed out that the roads have been accepted into the County Highway Maintenance System and it may be a county problem.

5) **St. George Island Sign**

Commissioner Eagan stated that she received a call regarding the sign to the entrance of St. George Island and inquired as to which agency had responsibility for the sign. Commissioner Chesser stated that the sign was put up by the St. George Island Improvement Association. Mr. Ichniowski indicated that the sign was along a state road and that he would contact the State regarding the placement of a standard sign for St. George Island.

OFFICE ON AGING

Present: Gene Carter, Director

Mr. Carter presented the following grant documents for the Commissioners' consideration:

- * Grant Application - Child and Adult Care Food Program Grant Renewal for FY '97. The CACFP is a mechanism by which the Medical Adult Day Services program can be partially reimbursed for the daily lunch and two snacks for clients in the MADS program.

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the CACFD Grant Application as presented. Motion carried.

- * Notification of Grant Award - Statewide Special Transportation Assistance Program for FY '97. The grant enables OOA to provide services for seniors and persons with disabilities for travel to work, shopping, and medical appointments, etc., who are not in the corridor of the public transportation route.

During discussion the Commissioners inquired into the status of the proposed bus stop at the Governmental Center, and the County Administrator agreed to look into it.

- * Notification of Grant Award - Section 18 Rural Transit Assistance Capital Grant for Fiscal Year 1997; funds to be used for purchase of two small buses with lifts (replacement); computer software; bus radios; bus fareboxes; bus stop signs; bus shelters.
- * Notification of Grant Award - Rural Transit Assistance Operating Grant (Section 18) for Fiscal Year 1997; funds to be used for operating assistance for rural area public transportation for St. Mary's County.

Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the referenced NGA's as presented. Motion carried.

COMPREHENSIVE WATER AND SEWER PLAN AMENDMENTS

Present: Jon Grimm, Director, Department of Planning and Zoning

CWSP 96-0625 - Rodney Thompson

To change service area category from W-6 and S-6 to W-3D and S-3D, for Parcel 337 of Tax Map 34 in the Hollywood area of the Sixth Election District.

CWSP 95-2590 - Bruce Knolls Subdivision

To change the service area category from NPS to RW for 70.3 acres described as Parcel 71 of Grid 12 of Tax Map 12. Bounded on the north by Mechanicsville Road, this property is located between Country Lakes and Mechanicsville in the Fourth Election District.

CWSP - 96-0068 - Rue Woods Subdivision

To change service area from W-6 and S-6 to W-3D and S-3D for parcel 212 and 268 of Tax Map 43 in the California area of the Eighth Election District.

As a follow up to the August 13 public hearing Mr. Grimm presented a draft Resolution approving the referenced amendments to the Comprehensive Water and Sewer Plan. He pointed out that he had submitted a memorandum to the Board responding to the comments raised by Mr. John Marum at the August 13 hearing.

Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and sign Resolution No. W/S96-04 once it is prepare in final form. Motion carried.

SIGN ORDINANCE DISCUSSION

Present: Jon Grimm, Director, Planning and Zoning

Commissioner Jarboe referred to concerns that individuals have regarding the county's sign ordinance (Mike Schwartz of Mike's Bikes; Mr. Courtney of Ridge Marine Sales, and others), and pointed out the size of sign allowed by 84 Lumber Company in Mechanicsville. He stated he believed there were problems with the sign ordinance and that it was not fair to small businesses.

Mr. Grimm explained that the Planning Commission has been studying issues of community character of which signs are a component and the draft revisions to the Zoning Ordinance and Comprehensive Plan will address these issues. Discussion ensued as to the legality/illegality of portable signs, illegal signs inventory; the Southern Maryland Wood Treating sign used by Ridge Marine Sales; citing of code violations; enforcement procedures by DPZ; Board of Appeals' interpretation of sign ordinance provisions; sign requirements; and other zoning issues (animal control shelter). Also discussed was the concern that any changes to the sign ordinance/zoning ordinance should be addressed during the regularly scheduled update rather than piecemeal.

During discussion Mr. Grimm stated that he has suggested that the Economic Development Commission, the Chamber of Commerce, and other groups participate with the County to address sign ordinance issues.

After discussion Commissioner Jarboe moved, seconded by Commissioner Brugman, to the to public hearing the suspension of the Sign Ordinance with the exceptions of 58.10 and 58.11 until such time as an ordinance can be drafted that is friendly to business. Motion failed one to four with Commissioners Thompson, Brugman, Chesser and Eagan voting against stating that the any revisions should be done during the process that is in place for updating the Ordinance.

In closing Mr. Grimm requested that the Commissioners provide him with suggestions/comments relative to changes to the Zoning Ordinance including the sign regulations. The Commissioners agreed to schedule a work session at a later time on this issue.

PROMOTION POLICIES AND PROCEDURES

Present: John J. Kachmar Jr., County Administrator
George Foster, Personnel Officer

Because of the new pay scale, implemented by County Government effective July 1, 1997, Mr. Kachmar and Mr. Foster advised that the Personnel Manual must be amended to reflect the new scale. By memorandum dated August 27 Mr. Foster outlined the current policies and the recommended changes. Mr. Foster advised that the proposed amendments need to be reviewed by the Employees' Association, department heads and county employees, and requested tentative approval of the recommendations in order to proceed to get comments as suggested.

Commissioner Brugman moved, seconded by Commissioner Chesser, to tentatively accept the amendments to the Manual of Personnel Policies and Procedures, which are to be reviewed and commented on by the Employees' Association, department heads and county employees. Motion carried.

EXECUTIVE SESSIONS

Commissioner Brugman moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss the following matters matter of Personnel (Health Officer; Classifications;), as provided in Article 24, Section 4-210(a)1; Potential Litigation, as provided for in Article 24, Section 4-210(a)8; and Personnel/Potential Litigation, as provided in Article 24, Section 4-210(a)1 and 8. Motion carried.

Commissioner Eagan moved, seconded by Commissioner Chesser, to discuss a matter of Personnel (consideration of appointments to Boards, Committees, Commissions), as provided in Article 24, Section 4-210(a)1. Motion carried 3-1-1 with Commissioner Jarboe voting against and Commissioner Brugman abstaining.

Personnel (Consideration of Appointments to 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
John J. Kachmar Jr., County Administrator
Judith A. Spalding, Recorder

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

Time Held: 3:45 p.m. - 4:30 p.m.

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

Personnel/Potential Litigation

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
John J. Kachmar, Jr., County Administrator
Doug Durkin, County Attorney
Steve Welkos, Director of Finance
George Foster, Personnel Officer
Evelyn Wood, Assistant Personnel Officer (attended from 4:42 - 5:00 p.m.)
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1 and 8

Time Held: 4:42 p.m. - 6:05 p.m.

Action Taken: The Commissioners continued discussion of the referenced issue and agreed to continue discussion at next week's meeting.

Personnel

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
John J. Kachmar Jr., County Administrator
Doug Durkin, County Attorney
George Foster, Personnel Officer
Judith A. Spalding, Recorder

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

Time Held: 6:05 p.m. - 6:25 p.m.

Action Taken: The Commissioners discussed a personnel matter and gave direction to staff.

Personnel (County Attorney's Office)

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
John J. Kachmar Jr., County Administrator
Doug Durkin, County Attorney
George Foster, Personnel Officer
Judith A. Spalding, Recorder

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

Time Held: 6:25 p.m. - 6:35 p.m.

Action Taken: The Commissioners discussed positions in the County Attorney's Office and agreed to take action in open session later in the meeting.

Potential Litigation

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
John J. Kachmar Jr., County Administrator
Doug Durkin, County Attorney
James Haley, Airport Manager
Judith A. Spalding, Recorder

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

Time Held: 6:35 p.m. - 7:00 p.m.

Action Taken: The County Attorney reviewed areas of potential litigation with the Commissioners.

7:00 P. M.

FOLLOW UP TO EXECUTIVE SESSIONS

Assistant County Attorney Position - County Attorney's Office

Commissioner Jarboe moved, seconded by Commissioner Chesser, to classify the vacant Assistant County Attorney position in the County Attorney's Office at Grade 14. Motion carried.

Commissioner Jarboe moved, seconded by Commissioner Brugman, to establish the position as a contract position. Motion carried.

Legal Assistant - County Attorney's Office

Commissioner Jarboe moved, seconded by Commissioner Chesser, to classify the vacant Legal Assistant position in the County Attorney's Office at Grade 8. Motion carried.

Legal Assistant - Department of Social Services

Commissioner Jarboe moved, seconded by Commissioner Chesser, to authorize the Personnel Officer to change the title of the paralegal position at the Department of Social Services to Legal Assistant, Grade 8. Motion carried.

Assistant County Attorney - Department of Social Services

Commissioner Jarboe moved, seconded by Commissioner Brugman, to authorize the Personnel Officer to set the Assistant County Attorney at the Department of Social Services at Grade 15. Motion carried.

Personnel Action - Office on Aging

Commissioner Jarboe moved, seconded by Commissioner Chesser, to direct staff to proceed with personnel actions in the Office on Aging as a result of federal cutbacks as discussed in executive session. Motion carried.

Boards, Committees, Commissions

Commissioner Jarboe moved, seconded by Commissioner Chesser, to authorize staff to proceed as discussed in executive session regarding boards, committees, and commissions. Motion carried.

PUBLIC HEARING

**ST. MARY'S COUNTY AIRPORT: LEASE APPLICATION
AIRPARK SALES & SERVICES, INC.**

(Held at Carter State Office Building Public Meeting Room.)

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
John J. Kachmar, County Administrator
Douglas S. Durkin, County Attorney
James Haley, Airport Manager
Glen Gardener, Chair, Airport Manager
Judith A. Spalding, Recorder

Also Present: Steve Bildman, Airpark Sales and Services, Inc.
Bryan Dugan, Attorney, “

The Commissioners conducted a public hearing to obtain public comment and input on the lease application of Airpark Sales & Services, Inc., which has submitted an application to lease from St. Mary's County the county-owned hangar, associated aprons, aircraft tie-downs and other fixed base operator facilities located on the St. Mary's County Airport for a term to be determined by the Board of County Commissioners for the purpose of operating the main fixed base operations, providing aircraft line services to include aviation gasoline services and jet fueling, providing aircraft rentals, providing a flight training school, providing an airtaxi and charter service, maintaining an aircraft sales and service facility, providing aircraft maintenance services and any and all other uses and services as may be requested by the applicant and permitted by the Board of County Commissioners.

County Attorney Durkin pointed out that although a public hearing to discuss airport lease applications is not typical or mandatory, the anticipated growth and development of the airport in the near future, and the significant amount of public interest in the St. Mary's County Airport in the past few years warrants solicitation of citizen comment.

The hearing began with opening remarks by Commissioner President Thompson who explained the proceedings and the purpose of the hearing. (A copy of her remarks are on file in the Commissioners' Office.)

The County Attorney presented and reviewed the agenda package and cited the Maryland Public Information Act requiring county officials to maintain the confidentiality of all commercial information and financial information submitted by an applicant for an airport lease or operating

agreement. He pointed out that two versions of the agenda package have been prepared--a public version and a complete version made available to the Board of County Commissioners, staff and the applicant. County Attorney Durkin presented an explanation of the purpose of the hearing and a summary of the issues including: General purpose; Specific Purposes; and Action Options which include:

- * If Airpark meets all requirements of Minimum Standards, Commissioners should make such a finding and authorize negotiations for a new lease and operation agreement;
- * If all requirements are not met or if one or more grounds for denial as specified in Minimum Standards §II(D) exists, then the Commissioners should make findings of not qualified. If not qualified, the Commissioners may deny application or remand to Airport Commission for further inquiry and recommendation.

County Attorney Durkin further presented a Summary of Airport Commission and Staff Recommendations:

A) § II (C)(1-10) Minimum Standards:

- (I) Airport Commission and Airport Manager found no deficiencies and recommend commencement of lease negotiations.
- (ii) With the exception of § II (C)(a) pertaining to proof of insurance, County Attorney does not review § II (C) qualifications unless a legal issue arises and his assistance is requested. County noted deficiencies but Airpark has since corrected and County Attorney concludes compliance with insurance rules; County Attorney input on other issues was not requested.

(B) § II (F)(1-7 and 9) Minimum Standards:

- (I) Airport Commission and Airport Manager found no deficiencies relative to seven of the eight categories of requirements, but did not make findings relative to the specialized services referenced in § II (F)(9) even though the application discloses that Airpark wishes to provide two (2) such services.
- (ii) County Attorney does not review § II (F) qualifications unless a legal issue arises and his assistance requested; no request was received.

C) § II (D)(1-12) Grounds for Denial:

- (I) Airport Commission and Airport Manager found no grounds for denial, including no grounds for § II (D)(9) denial based upon breach of prior lease.
- (ii) County Attorney does customarily review audit reports relative to existing tenant applications for new leases for purposes of making recommendation relative to any § II (D)(9) default in performance of any airport lease. Based upon terms of Airpark's two existing but conflicting leases and facts presented, County Attorney is unable to unconditionally conclude there has been no default in existing leases.

6) **Issues to Be Resolved:** Thus, there are two (2) issues to be resolved:

- A) Compliance with any special requirements for specialized services such as aerial photography. (Airport Manager Haley indicated that this was no longer an issue.)

- B) Determination of whether Airpark has fully performed under both its 1987 ground lease for spaces 1F and 1G and the 1988 and 1990 FBO leases for spaces 1A, 1B, 1C and 1E, relative to payment of 3% of gross income rent on commuter/air taxi/charter income received during 1987 through 1996.
- 7) **Summary of Airpark's Contentions Regarding Rent/Audit/Lease Performance Issue**
- A) 1987 lease controls, not 1988 or 1990 FBO lease
 - B) Commuter operations revenue is not a result of an operation conducted in conjunction with Airpark's operations at St. Mary's County Airport
 - C) Intent of three leases was to exclude this income from rent calculations
 - D) Estoppel, waiver, laches & limitations prohibit any rent claim
 - E) Auditor's report concludes rent not payable on commuter income
 - F) Destruction of manifest records does not violate lease requirement for retention of financial records
 - G) Six categories of miscellaneous income were justifiably excluded from rent calculations.
8. **Summary of County Attorney Contentions Regarding Rent/Audit/Lease Performance Issue**
- A) 1987 lease conflicts with 1988 and 1990 leases regarding rent calculation requirements relative to commuter service income, yet both leases require provision of air taxi and charter service. County Commissioners must therefore decide which lease applies based upon facts as represented by Airpark and based upon terms of written leases.
 - B) Determination of whether commuter services were rendered in conjunction with operations at St. Mary's County Airport depends again, upon terms of both leases and facts, as determined by County Commissioners.
 - C) Evidence of intent should be considered only if leases are vague, and if vague, evidence of intent should be limited to documents executed at time leases were executed and statements made at or before execution of leases. Loffler and Haliscak 1996 statements of intent relative to leases executed six to nine years after execution of leases are of no probative value.
 - D) Waiver is prohibited by lease terms. Estoppel does not operate against government. Former Airport Commission Chairman was not authorized to unilaterally amend written lease and so bind the County Commissioners. Limitations and laches do not apply to airport rent claims.
 - E) Auditor erroneously relied only on 1987 lease and did not consider 1988 or 1990 FBO lease; and has acknowledged this error in writing.
 - F) Destruction of manifests does not create material breach of lease as other records exist so as to enable auditor to conduct an audit.
 - G) Determination of rent obligation relative to six categories of miscellaneous income is question to be determined by County Commissioners based upon lease terms and facts presented by Airpark.

In concluding the presentation by the County Attorney, Mr. Haley, Airport Manager, recommended that the Commissioners consider approving the application and operation agreement for Airpark Sales and Services, Inc.

Mr. Gardiner, Chair of the Airport Commission, advised that it was the findings of the Airport Commission that Airpark meets the qualifications set forth in the Minimum Standards. The Airport Commission does not recommend extending Airpark's 1990 lease as it expired April of this year. However, the Airport Commission recommends that the Board of County Commissioners accept Airpark's lease application, and begin negotiating with Airpark for a new lease and operating agreement to continue to provide Fixed Base Operator Services at the St. Mary's County Airport.

Mr. Dugan, Attorney for the Applicant, addressed each of the issues raised by the County Attorney regarding rent, the audit, and the lease performance issue. He stated that it was his belief that rent was not owed; that either under the 1987 lease or the 1990 lease the rent was not owed; that he raised issue with the County Attorney regarding the airtaxi and charter service stating that the 3% was not owed for that service since the County Airport was not used--the County Airport was used for fueling only; that under either the 1987 lease or the 1990 lease, there is no default because Airpark has 90 days to pay after the Commissioners make a decision whether back rent is owed, and therefore, there are no grounds for find the lease not qualified; reference to the destruction of records was inflammatory to Airpark; and that there is no violation of the lease and therefore §II(D)(a) cannot be used to deny the application.

During question and comments by the County Commissioners, the following issues were discussed: commuter service for the Department of Defense; closing of the airport during construction did not adversely impact charter income; private charter not possible because of lack of all weather capability; the location and destination of the airtaxi and charter planes (planes are based in New Jersey); charter service could continue without a lease.

The hearing was opened for comments by the audience:

Pat Weaver (partner with Mr. Bildman in several capital improvement leases); supported Airpark's lease application; gave history of airport and the acquisition of the FBO leases by Mr. Bildman; commuter income was to be excluded in order to stimulate growth.

Ned Clarke (former Airport Commission member); indicated the need for amicable lease negotiations; spoke in support of Airpark lease application.

J. E. Densmore (owns and operate airplanes) - explained his experiences with the airport and Airpark; spoke in support of renewal of lease application.

Dave Seeman (former Airport Chair) - County should be concerned with future of airport; indicated that it was understood that FBO was not required to pay the 3% for commuter service; spoke in support of Airpark lease application.

Bob Waldschmidt (owns two of Mr. Bildman's commuter planes and has made large investment in the airport) - Spoke on behalf of Airpark and mentioned that it was the county's intent to subsidize off-site commuter business.

ADJOURNMENT

The meeting adjourned at 9:20 p.m.

**Minutes Approved by Board of
County Commissioners on 9/3/96**

Dorothy A. Spalding
Recording Secretary