

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
DECEMBER 3, 1996**

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

CALL TO ORDER

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

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Brugman, to approve the minutes of Tuesday, November 26, 1996. Motion carried.

APPROVAL OF BILLS

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

ADDITIONS/DELETIONS TO AGENDA

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

CONSENT AGENDA

The Consent Agenda included the following documents:

1. **Correspondence**
To Chair, Emergency Services Committee, approving the bylaws for the Emergency Services Committee

2. **Department of Public Works Items**
 - a. Public Works Agreement Addendum with William R. Mattingly for Glebe Run Subdivision, backed by a Letter of Credit in the amount of \$286,800 with Maryland Bank & Trust Company.

 - b. Road Resolutions
 - R96-34 Designating Shady Court its intersection with Buck Hewitt Road and Thompson Court as a Stop Street.

 - R96-35 Posting Shady Court at 25 mph.

 - R96-36 Designating the following as Stop Streets:
 - * Leonard Hall Drive at its intersection with Md. Rte. 246 and Baldrige Street
 - * Baldrige Street at its intersection with Md. Rte. 245.

 - R96-37 Posting Leonard Hall Drive and Baldrige Street at 25 mph.

 - R96-44 Designating Mallard Creek Court at its intersection with Drayden Road as a Stop Street.

 - R96-45 Posting Mallard Creek Court at 25 mph.

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

**COMMENT POLICY
PUBLIC HEARINGS**

The Commissioners discussed the fact that staff was receiving telephone calls regarding the recently held public hearing on road name changes and whether individuals would be required to put the comments in writing. After discussion the Commissioners agreed to establish a policy that written comments would be encouraged; however, comments by telephone would be allowed.

COUNTY ADMINISTRATOR ITEMS

Present: Sue Wilkinson, Administrative Officer

1. **Budget Amendment No. 97-23
Sheriff's Department**

(To provide funds for two replacement vehicles that were totaled in accidents - \$40,000)

After discussion regarding insurance, accident responsibility, replacement of funds upon settlement, Commissioner Chesser moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 97-23 as presented. Motion carried.

2. **"The Ark and Dove" Print**

Agreement establishing the value of "The Ark and Dove" print, which is on loan to the House Appropriations Committee, at \$250.

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

3. **Response Letter
1996 Electrical Code**

Also Present: Douglas Durkin, County Attorney

(Correspondence to Chair, Electrical Examiners Board regarding the adoption of the 1996 Electrical Code.)

Mr. Durkin advised that the 1996 Electrical Code had been submitted to him for review and indicated that it should not be adopted until it has been thoroughly reviewed. He further pointed out that he did not believe that the Code should be adopted by reference and gave examples of legal problems that he had encountered in another County that had adopted a code by reference.

Secondly, he noted that the County should take all of the various ordinance and consolidate the enforcement and penalty provision in one uniform system using municipal infraction system, which is an item in our 1997 legislative package.

In addition he advised that the Department of Planning and Zoning is considering consolidating all of the construction codes into one document.

In conclusion the Commissioners directed that the letter to the Chair, Electrical Examiners Board, be revised to reflect the referenced information.

**PROCLAMATION
NATIONAL DRUNK AND DRUGGED DRIVING PREVENTION MONTH**

The Commissioners presented a Proclamation designating the month of December 1996 as National Drunk and Drugged Driving Prevention Month

**ST. MARY'S HANGAR ASSOCIATION, INC.
LEASE ADDENDUM**

Present: Douglas Durkin, County Attorney
James P. Haley, Airport Manager

Mr. Durkin appeared before the Commissioners to present an Addendum to the existing Lease Agreement (for a parcel of land consisting of approximately 11,084 sq. ft. for the building and 4,000 sq. ft. for associated ramps at the St. Mary's County Airport) between the Board of County Commissioners of St. Mary's County (Lessor) and St. Mary's Hangar Association, Inc. (Lessee). The Addendum reduces the amount of the annual rent by \$360.50 and the Lessee will pay Lessor three (3%) percent of gross revenues each month; thereby making the lease consistent with other T-hangar leases previously executed for ground leases at the Airport.

Mr. Haley advised that the Lease Addendum has been reviewed by the Airport Commission and the Commission members voted unanimously to recommend approval to the Board of County Commissioners.

After discussion Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and to authorize Commissioner Thompson to sign the Lease Addendum as presented. Motion carried.

COUNTY COMMISSIONERS' TIME

Donation of Compensatory Time Offer

Commissioner Chesser advised that a county employee had offered 100 hours of compensatory time to the Sheriff deputy who was seriously injured in an airplane crash in Pennsylvania. The Commissioners advised that this would have to be researched to determine if it was allowable.

Sign Ordinance

Commissioner Brugman stated that he had previously not agreed to support acting on the sign ordinance because it was his understanding that Planning and Zoning would be beginning the zoning ordinance revision/hearing process; however, nothing happened in November. Commissioner Brugman requested an update on the zoning ordinance revision process.

Legal Cases - Status Report

Commissioner Jarboe stated that he requested the County Attorney to publicly present the public information portion of the status report of the County's legal cases that he had discussed in executive session on November 26.

Mr. Durkin gave the status of cases that had been completed and those that are pending.

Privatization

Regarding the privatization issue of the restaurant at Wicomico Shores, Commissioner Jarboe inquired of County Attorney Durkin whether this could be discussed in open session. Mr. Durkin responded that discussion should be in compliance with the Open Meetings Act--that discussion of individuals should be held in executive session and policy decisions need to be discussed in open session. The matter could begin in executive session to protect the privacy of individuals and then go to open session to take formal action regarding personnel and to discuss policies.

Transfer Station RFP

Commissioner Thompson requested staff to inquire as to the status of the RFP for the transfer station.

Selection of Vice-President

Commissioner Thompson stated that it was the second anniversary of this Board of County Commissioners and that the selection of the vice-president through alphabetical rotation needed to be made. Therefore, Commissioner Jarboe moved, seconded by Commissioner Chesser, to select Commissioner Frances P. Eagan as Vice-President. Motion carried.

EXECUTIVE SESSIONS

Commissioner Eagan moved, seconded by Commissioner Brugman, to meet in Executive Session to discuss a matter of Personnel (Housing Authority Service Agreement), as provided for in Article 24, Section 4-210(a)1. Motion carried.

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

Personnel (Housing Authority Service Agreement)

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
Douglas Durkin, County Attorney
Martin Fairclough, Director, DED
Judith A. Spalding, Recorder

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

Time Held: 2:35 p.m. - 3:50 p.m.

Action Taken: The County Commissioners reviewed the service agreement as it related to personnel.

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
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1
Time Held: 3:50 p.m. - 4:30 p.m.

Action Taken: The Commissioners reviewed the current status sheet and terms-to-expire sheet and gave direction to staff.

**EXECUTIVE SESSION
PERSONNEL/POTENTIAL LITIGATION**

Commissioner Eagan moved, seconded by Commissioner Chesser, to meet in Executive Session for a matter of Personnel/Potential Litigation. Motion carried.

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
Sheriff Richard Voorhaar
Douglas Durkin, County Attorney
James P. Haley, Procurement Officer
Judy Pedersen, Public Information Officer
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1 and 8
Time Held: 4:32 p.m. - 5:25 p.m.

Action Taken: The County Commissioners discussed a personnel/potential litigation issue with the Sheriff.

7:00 P. M.

**PUBLIC HEARING
PROPOSED TRANSFER TAX**

Present: Douglas Durkin, County Attorney

The Board of County Commissioners conducted a public hearing on a proposed amendment to the Transfer Tax Ordinance. Consideration will be given to repealing the exemption currently provided and enacting substitute exemption(s) and adding a severability clause.

County Attorney Durkin read the Notice of Public Hearing which was advertised in *The Enterprise* newspaper on November 25 and 22, 1996.

During his presentation Mr. Durkin advised that the Assistant Attorney General has issued an opinion that the current exemption is unlawful, but suggested that the County direct the Clerk of the Court to continue apply the current ordinance until an amendment has been implemented.

Mr. Durkin reviewed the four options to be considered including repealing the exemption; enactment of one, both or neither of the two transfer tax exemptions currently authorized by law; to the addition of a severability clause; and to possible other amendments to the transfer tax ordinance.

The hearing was opened for comments from the Commissioners. Responses from the County Attorney included: that the transfer tax applies to each transfer of real property; that the proceeds from the tax are earmarked for capital improvements; that under Option C the grantee must meet both requirements of (1)B1.(I) and (ii) or (1)B2.(I) and (ii); Option B applies to all options that are governed by the State statute; and that the tax exemption applies to property with a dwelling unit. A question was also raised whether an individual had to pay the transfer tax as well as the impact fee for an old house as well as a new one. (Commissioner Eagan stated the impact fee was only on new homes.)

The hearing was opened for comments from the audience:

Minnie Russell: Whether the purchase of a trailer would be considered a "first-time purchase," or could it be bypassed for something better at a later time. Mr. Durkin responded that an individual cannot bypass the exemption, that the authority would be have to be addressed by the General Assembly.

Doug Ritchie: Questioned use of the transfer tax revenues, stating that it was not being used for its intended purpose, but used for governmental facility repairs; suggested there were other ways to get revenues than through someone buying a home; agreed it was fair to tax someone new (through the impact fee); suggested that the County help the first time home buyer and that some day take the tax off the boos and add an adequate impact fee. Commissioner Thompson explained that if the County did not have the transfer tax, it would have to borrow money; that the impact fee is a growth-generated capital program.

Hearing no further comments, the public hearing was closed; the record will remain open ten days for additional comments.

As a follow up to discussion earlier in the meeting regarding written/oral comments, the county Attorney advised that written comments are preferable because it would become a part of the history of the ordinance.

PUBLIC FORUM

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

Doug Ritchie: Clarified his comments from the October public forum that he requested the Commissioners' assistance in getting NuAd to provide additional public access time in the evening in lieu of day time coverage.

Daniel Miller: Advised that he purchased a home in Patuxent Knolls and there is a serious soil erosion problem that needs a retaining wall, the Plot Plan layout is not accurate, and he cannot install a bathtub in the basement because of a well supply pipe in the wall, as well as other problems; He has contacted the builder, the real estate office, county agencies (Soil Conservation, Health Department, MDIA Planning and Zoning and Public Works), and he has not gotten the problem resolved; concerned that there is no code that states certain things cannot be done.

Don O'Neal: Referred to Commissioner Jarboe's comments on television regarding the possibility of a transfer station fee; that citizens pay enough taxes to take care of trash and other necessities. (Commissioner Jarboe responded that the County is currently in debt for \$10M for capping and debt service) because of policies of past boards before this board could even consider building a new landfill; that the County could subsidize the cost for trash removal (\$1M) if the Board of Education implemented administrative cuts as recommended in the administrative study that it conducted; services have to be paid for through fees or taxes or take "deep cuts;" expressed the need for more education on recycling.)

Wayne Suite, (Summitt Hill Subdivision): Expressed concern that the development of Summitt Hill III (off of Golden Beach) has submitted an application to fill in Indian Creek Swamp to use as an access road; expressed concern with the project's impact on the county's waterways; that there is already in existence a gravel road (Mt. Wolf Road) leading to the development that could be upgraded and used for access.

Dora Zimmerman (Summitt Hill Subdivision): Regarding the Summitt Hill road project, requested Commissioners' assistance to help protect the environment and save the nontidal wetlands; if they put in manmade wetlands, how could there be assurance that it is as good as or better than the existing wetlands; requested to be notified if there is a public hearing.

Gerald Ostrowski (Summitt Hill): Expressed concern regarding the Summitt Hill III project and the traffic problems with the proposed access will cause the county.

Minnie Russell: (1) Inquired about the old *Tide* newspaper boxes that are along the roads in the County. (The public information officer advised that Freestate Publications is the owner of the boxes); (2) Suggested that the County enforce the penalty for littering and inquired when the last time it was enforced. (Commissioner Jarboe suggested that whoever video tapes an offender could get one-half of the fee as a reward.

ADJOURNMENT

The meeting adjourned at 9:05 p.m.

Minutes Approved by Board of
County Commissioners on 12/10/96

Judith L. Scobling
Recording Secretary