

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
FEBRUARY 4, 1997**

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

CALL TO ORDER

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

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve the minutes of Tuesday, January 28 and the Special Meeting of January 30, 1997. Motion carried.

APPROVAL OF BILLS

Commissioner Eagan moved, seconded by Commissioner Chesser, to authorize Commissioner President Thompson to sign the Check Register. Motion failed zero to five.

Commissioner Brugman moved, seconded by Commissioner Chesser, to authorize payment of the bills with the exception of the payment to Mr. Bowes. Motion carried.

During discussion of the motion, Commissioner Jarboe questioned payment to Mr. Robert Bowes for fixtures and equipment in the amount of \$14,000.

Later in the meeting Director of Finance Steven Welkos and Director of Recreation and Parks Phil Rollins came before the Board to explain the expenditure. Mr. Welkos advised that since the contract with Mr. Bowes was canceled, the County purchased the equipment from the pro shop. He indicated that an employee from the Finance Office went over the inventory and came to an agreement with Mr. Bowes to purchase the inventory at approximately two thirds of the original purchase price (one-half of the replacement value). Mr. Rollins reviewed the list of items and pointed out that these were items that would have had to been purchased to keep the shop running. Mr. Welkos noted that in order to track these items, this would be a separate line item in the budget.

After discussion Commissioner Brugman moved, seconded by Commissioner Chesser, to approve payment to Mr. Bowes. Motion carried.

ADDITIONS/DELETIONS TO AGENDA

Commissioner Thompson advised that there were two additions to the agenda: addition of executive sessions for Personnel (2) (Sheriff's Department and Office of Community Services - Alliance).

Commissioner Jarboe moved, seconded by Commissioner Eagan, to accept the Agenda as amended. Motion carried.

CONSENT AGENDA

Correspondence

- a. To Naval Facilities Engineering Command expressing appreciation for efforts in getting the lease for the Willows Road property resolved and requesting assurance there would be no further delays.

- b. To Wendy Anderson clarifying information regarding the county's budget.
- c. To Stanley D. Wainwright, Jr. and Edward J. Dowgiallo, Jr. responding to concerns regarding ST Services' proposal for storage of urea ammonium nitrate solution at the Piney Point facility.

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

COUNTY ADMINISTRATOR ITEMS

Present: John J. Kachmar, County Administrator

1. **Marcey House Board
Letter of Appointment**

Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve and sign a letter appointing Charlotte S. Bunyan to the Marcey House Board for a term to expire December 31, 2000. Motion carried.

2. **Wicomico Golf Course
Alcohol License Renewal**

Commissioner Chesser moved, seconded by Commissioner Brugman, to authorize Commissioner President Thompson to sign the Alcohol License Renewal for the Wicomico Golf Course. Motion carried four to one with Commissioner Jarboe voting against stating that the County should not be in the "bar business."

Commissioner Brugman moved, seconded by Commissioner Chesser, to authorize Commissioner President Thompson to sign correspondence to the Alcohol Beverage Board relative to excluding the parking lot adjacent to the clubhouse from the licensed premises. Motion carried.

3. **Resolution No. 97-05
Signing of Closing Documents - Myrtle Point**

Affirmation of Commissioners' signing Resolution No. 97-05 on Monday, February 3, authorizing Commissioner Thompson to sign any and all closing documents for Myrtle Point property acquisition.

Commissioner Chesser moved, seconded by Commissioner Brugman, to affirm the signing of Resolution No. 97-05 by the Board of County Commissioners on Monday, February 3, authorizing Commissioner President Thompson to sign any and all closing documents relative to the acquisition of the Myrtle Point property. Motion carried.

4. **Local Law Enforcement Block Grant Advisory Committee**

Correspondence to Criminal Justice Coalition members indicating the Commissioners' desire to designate the Coalition as the Local Law Enforcement Block Grant Advisory Committee in accordance with federal grant requirements.

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

Notice of Public Hearing to be held during the Criminal Justice meeting of February 20 at the Carter State Office Building.

Commissioner Chesser moved, seconded by commissioner Brugman to proceed with the February 20 public hearing as presented. Motion carried.

5. **Employee Health Advisory Committee**

Mr. Kachmar advised that employees to serve on the referenced Health Advisory Committee and indicated that membership is to include two County Commissioners.

Commissioner Eagan moved, seconded by Commissioner Brugman, to appoint Commissioners Brugman and Chesser to the Employees Health Advisory Committee. Motion carried.

PROPOSED HUMAN RELATIONS COMMISSION LEGISLATION

Present: Douglas S. Durkin, County Attorney

Mr. Durkin appeared before the Commissioners to present proposed legislation giving authority to create a Human Relations Commission with authority to: mediate complaints of discrimination in employment, housing and public accommodations; engage in alternative dispute resolution; to provide for satisfaction of the 180-day statutory deadline for filing complaints with the State; to provide for maintenance of confidential records; and to have authority to conduct mediation sessions in executive session. County Attorney Durkin reviewed the history of the Human Relations Commission pointing out that it had originally been established in 1963 by the Maryland General Assembly; given authority in 1989 to conduct investigations in a confidential manner; and in 1994 legislation was requested to simplify the appointment process. However, the 1994 legislation resulted in removing the enabling statute to allow the confidential investigations.

During his presentation Mr. Durkin pointed out that the issue of the confidentiality came to light through a request for information in the Human Relations Commission files through the Maryland Public Information Act. He stated that unless there is a specific exception the information must be disclosed, and that there were other commissions that were protected from public disclosure. He advised that the Public Information Act required the custodian of records to deny access, and he filed a petition in Circuit Court requesting that the denial be made permanent; however, the situation was resolved because the person requesting the information wanted only one file and the individual involved agreed to releasing it, and because there was no employer response.

Mr. Durkin stated that the St. Mary's County Human Relations Commission has ceased in assisting people because it no longer can guarantee confidentiality. He stated that he has met with the Commission on several occasions and he subsequently drafted legislation authorizing the Commission to continue providing the services it had been providing for a number of years.

During discussion Commissioner Jarboe pointed out that he believed the proposed legislation was in conflict with the County's Open Meetings Law and that there was a State Human Relations Commission at the Carter State Office Building. He suggested that the County's Commission be restructured to focus on education and to allow the State Commission to handle enforcement.

After discussion Commissioner Brugman moved, seconded by Commissioner Chesser, to amend the proposed legislation (Page 3, §46, A) by indicating that the discussion may be moved to open session at the written request of both parties involved. Motion carried four to one with Commissioner Jarboe voting against stating that the draft has not yet been presented at the public hearing and that it conflicted with the County's legislative package process.

Commissioner Brugman moved, seconded by Commissioner Chesser, to approve the amended draft legislation and that it be forwarded to the legislators. Motion carried four to one with Commissioner Jarboe voting against.

The Commissioners agreed to conduct a public meeting on February 18 at 5 p.m. on the proposed Human Relations Commission legislative proposal.

MT. WOLFE ROAD DISCUSSION

Present: Dan Ichniowski, Director, DPW

As a follow up to the January 14, 1997 public hearing on the proposed realignment of about 2,000 feet of Mt. Wolfe Road in conjunction with the Summitt Hill Subdivision, Mr. Ichniowski reviewed comments received from the public hearing and during the ten-day open record period.

After discussion regarding the upcoming Maryland Department of Environment public hearing, the Board of County Commissioners' role, and the Planning Commission's role, Commissioner Jarboe moved, seconded by Commissioner Brugman, that in consideration of unresolved issues regarding public access, safety, and equity for the present neighborhood, to deny the request for realignment of Mt. Wolfe Road. Motion carried.

Mr. Ichniowski will submit a Resolution for the Commissioners' approval denying the realignment for next week's meeting.

COUNTY COMMISSIONERS' TIME

County Commissioners' Mail Log

Commissioner Brugman suggested that the Commissioners consider having future discussion regarding the Mail Log System stating that he has noticed a number of letters have not been included in the public mail log. He suggested that there be a staff training session regarding the mail log. County Administrator Kachmar stated he and the County Attorney will discuss it and return to the Board.

Letters of Appreciation

Commissioner Eagan recommended that staff prepare letters to Secretary of the Department of Transportation Winstead expressing appreciation for visiting the County and making a presentation, and to Tim Smith, Executive Director, NAS, thanking him for his hospitality and the tour of the Naval Air Station. The Commissioners gave their concurrence.

Summitt Hill, Section III

Commissioner Jarboe referred to the upcoming February 25 Maryland Department of Environment and stated that Judy Code of MDE has interpreted that the Commissioners are in favor of the crossing of the swamp by the developers of the referenced project. He pointed out that the action taken earlier in the meeting indicates the Commissioners' concerns regarding the project and suggested drafting correspondence advising that it is the Board's policy to be environmentally sensitive and will work within the boundary of the law to protect the environment. The Commissioners gave their concurrence.

EXECUTIVE SESSIONS

Commissioner Chesser moved, seconded by Commissioner Eagan, to meet in Executive Session to discuss a matter of Property Acquisition (Wicomico Shores), as provided for in Article 24, Section 4-210(a)11. Motion carried three to two with Commissioners Brugman and Jarboe voting against stating that a public official is part of the corporation being discussed and that it should be discussed in public.

Commissioner Jarboe moved, seconded by Commissioner Brugman, to meet in Executive Session to discuss a matter of Personnel (Reinstatement Request - DPW; Sheriff's Department and Office of Community Services (Alliance)), 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.

Property Acquisition (Wicomico Shores)

Present: Commissioner Barbara R. Thompson, President
 Commissioner Paul W. Chesser
 Commissioner Frances P. Eagan
 John J. Kachmar Jr., County Administrator
 Douglas Durkin, County Attorney
 Phil Rollins, Director, Recreation and Parks
 Judith A. Spalding, Recorder

(Commissioners Brugman and Jarboe did not participate.)

Authority: Article 24, Section 4-210(a)1
 Time Held: 3:15 p.m. - 3:45 p.m.

Action Taken: Staff reviewed the status of the acquisition of property at Wicomico Shores and the Commissioners gave direction to staff.

Personnel - Department of Public Works

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
 Evelyn Wood, Assistant Personnel Officer
 Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1
 Time Held: 3:45 p.m. - 4:10 p.m.

Action Taken: The Commissioners discussed a matter of personnel and agreed to continue discussion at next week's meeting..

Personnel - Sheriff's Department

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
 Evelyn Wood, Assistant Personnel Officer
 Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1
 Time Held: 4:10 p.m. - 4:30 p.m.

Action Taken: The County Administrator reviewed two personnel items relative to the Sheriff's Department.

Personnel - Office of Community Services (Alliance)

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: 4:30 p.m. - 4:35 p.m.

Action Taken: The County Administrator reviewed a personnel matter and the Commissioners agreed to take action in open session.

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
John J. Kachmar Jr., County Administrator
Judith A. Spalding, Recorder

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

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

PARCEL OF RECORD

(Commissioner Jarboe did not participate.)

County Attorney Durkin reviewed with the Commissioners the decision of the Court of Special Appeals relative to the litigation filed against the County by the Potomac River Association and the County's appeal. The Commissioners directed that Mr. Durkin make a presentation on the decision after the presentation on Myrtle Point.

7:00 P. M.

FOLLOW UP TO EXECUTIVE SESSION

Commissioner Jarboe moved, seconded by Commissioner Brugman, to approve an exception to the merit selection procedures to appoint Andrew Joe Donnicks as the County's grant-funded Prevention Coordinator at Grade 9, Step 5 retroactive to July 1, 1996. Motion carried.

**PUBLIC HEARING
ROAD NAME CHANGES**

Present: Jeff Jackman, Planner, Office of Planning and Zoning

The Commissioners conducted a public hearing in response to two petitions for road name changes filed pursuant to §64.4 of the St. Mary's County Zoning Ordinance, the Subdivision Regulations, and County Commissioners' Resolution No. Z94-15. The petitions requested renaming Dead Beat Drive to Kinders Lane (Off of Deerhaven Lane, Third District) and renaming Hicks Drive (Office of Budds Creek Road, Third District) to Holly Oaks Drive.

The Notice of Public Hearing was published January 17 and 24, 1997.

Dead Beat Drive to Kinders Lane

(Petition signed by three of the four property owners)

No comments from the audience.

Hicks Drive to Holly Oaks Drive

(Refiling of a petition signed by four of the seven property owners)

First Public Hearing was held November 26, 1996 after which the Commissioners made a decision that the road remain **Hicks Drive**. A new petition was submitted with the same four in favor of renaming the road to **Holly Oaks Drive**.

Comments from the audience included:

Bonita LaQuay - Spoke in opposition to changing the road name to **Holly Oaks Drive** stating she has already gone to the expense of changing all her documents to **Hicks Drive** for the 911 system; stated that Hicks Drive was the original name named after the owner of the property. If it is changed again she will ask the County for reimbursement; expressed concerns about proper notification of the hearings.

Donald LaQuay - Expressed opposition to renaming; stated that one of the individuals who signed the petition in favor of renaming did not care whether or not it was changed; expressed concern regarding proper notification of the hearings; did not want to again go through the aggravation of changing documents.

Sandra Varesco - Expressed support for renaming road to **Holly Oaks Drive** and did not like the name of **Hicks**; gave suggestions for changing addresses on documents; explained how she circulated the petition.

Gary Varesco - Expressed support for renaming road to **Holly Oaks Drive**; explained the circulation of the petition.

Katherine Pilkerton - Expressed support for changing road name to **Holly Oaks Drive**; did not like hearing derogatory comments about the name "Hicks."

Clara McCartney - Expressed opposition to the change stating she has changed her address on all her documents; asked for guarantee that she will get her mail if it is changed.

Pamela Mattingly - Advised that her husband did not care whether it was changed.

The public hearing was closed; the record will remain open for ten days for written comments; and the Commissioners will make a decision on the road name on February 18 at 4 p.m.

**PROPERTY ACQUISITION
MYRTLE POINT**

Present: Douglas Durkin, County Attorney
Phil Rollins, Director, Recreation and Parks
Debi Osborne, Trust for Public Land

The County having gone to settlement on the acquisition of the 192-acre parcel of property at Myrtle Point, the County Attorney made a presentation on the full disclosure of negotiations for acquisition. His presentation included: a history of the project; legal issues; Coastal Barrier Improvement Act; financial consideration; the Commissioners' September 12, 1995 Conditions for Closing; Inventory of Closing Documents (signature authority, point closing, 240 and 69 acre parcels closing; sewer easement closing; MetComm closing; documents relevant to all closings); and checklist for sale, acquisition, and acceptance of real estate by county.

After the presentation the Commissioners accepted questions and comments from the audience. Questions included:

Viki Volk (Enterprise) - Questioned use of citizens donations; ownership of sewer lines; Dean property access to Patuxent Boulevard; payment of taxes; payment of mortgage.

Jack Witten (Potomac River Association) - Questioned restrictions placed on the property by the County when the PUD was approved in 1983.

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

PARCEL OF RECORD

County Attorney Durkin summarized the history of the parcel of record litigation and the recent Court of Special Appeals decision on the county's appeal of the litigation filed against the County by the Potomac River Association. He advised that the Court held that the St. Mary's County Zoning Ordinance does conflict with the Stat law and is thereby invalid; and further, that Judge Rymer's order for a Writ of Mandamus ordering the County to take action against violators of the parcel of record provisions was overturned because enforcement of the subdivision laws is discretionary with the County.

ADJOURNMENT

The meeting adjourned at 10:00 p.m.

**Minutes Approved by Board of
County Commissioners on 2/4/97**

Judith A. Spaulding
Recording Secretary