

**ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS' MEETING  
SEPTEMBER 23, 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

(Commissioner Jarboe was not present at the beginning of the meeting.)

**CALL TO ORDER**

The meeting was called to order at 11:05 a.m.

**BOLTON OFFUT DONOVAN, INC.  
STATE RETIREMENT SYSTEM**

Present: Tom Lowman, Bolton Offutt Donovan, Inc.

Mr. Lowman appeared before the Commissioners to provide information relative to the State Retirement System including proposed changes and alternatives. The presentation included:

- \* Summarization of current plan (the old Retirement System that was closed to new members in 1980 and the Pension System, which has been ranked 47th out of 48 plans).
- \* Retirement Subcommittee's Proposal to current Plan including benefit changes (increase of benefit rate to 1.5%; must be in plan five years to benefit, and those transferred from Retirement System have an Offset); funding issues; goals of proposed system (adequate benefits; shared costs; affordable program); and measurements of benefit adequacy (target is 82%).
- \* Alternatives Considered (defined contribution supplement versus defined benefit plan).
- \* Options for County to accept State's Proposal or Withdraw from State Plan and add a supplemental defined contribution plan/match.
- \* Unfunded liability issues (which may or may not currently exist).
- \* Legislature did not support current proposal; Governor supported Retirement Board's recommendations; and Maryland State Retirement System in favor of defined vs. defined contribution.

A copy of the presentation is on file in the Commissioners' Office.

(Commissioner Jarboe entered the meeting - 1:00 p.m.)

**NATIONAL CONSTITUTION WEEK**

Present: Stacey Panei, Constitution Week Chairperson

In commemoration of National Constitution Week, Ms. Panei appeared before the Commissioners to conduct the Invocation and Pledge of Allegiance, reading of the Preamble to the Constitution and remarks from participants and to get the Commissioners' and others in the audience's signatures on scrolls which will be housed in the National Constitution Center Museum on Independence Mall in Philadelphia. The Commissioners presented a Proclamation designating the week of September 17 through 23 as *National Constitution Week*.

### **APPROVAL OF MINUTES**

**Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve the minutes of Tuesday, September 16, 1997 as corrected. Motion carried.**

### **APPROVAL OF BILLS**

**Commissioner Eagan moved, seconded by Commissioner Chesser, to authorize payment of the bills. Motion carried.**

### **ADDITIONS/DELETIONS TO AGENDA**

**Commissioner Eagan moved, seconded by Commissioner Jarboe, to accept the agenda as amended (adding Seatbelt Law Proclamation; deleting old Community College site discussion; adding Executive Sessions for Litigation (Core Service Agency and St. Mary's Disposal) and adding discussion regarding Colton Endowment Funds). Motion carried.**

### **CONSENT AGENDA**

The Consent Agenda included the following:

#### **Correspondence**

1. Various letters to individuals relating to the Comprehensive Land Use Plan revision and possible expansion of the Lexington Park Development District southward:
  - a) Wayne P. Marble
  - b) Richard and Sally Roloson
  - c) Bob Boxwell, St. Mary's Friends of the Chesapeake
  - d) Alan Sivak
  - e) Lola M. Gilbert
2. To various individuals relating to possible expansion of the Lexington Park Development District southward during the Comprehensive Land Use Plan revision and dangers of nutrient run-off into our watershed areas:
  - a. Barry S. Friedman
  - b. B. Krondorfer
  - c. Adam Werblow
  - d. Katherine S. Clarke
  - e. Mark Roda and Joanne Klein
3. To Senator Dyson concerning Mr. Leonard Kessler's plans for business expansion and rezoning of property.
4. To Joseph Gough, Traffic Safety Subcommittee, regarding implementation of recommendations related to motor vehicle crashes in St. Mary's County.
5. To Secretary David L. Winstead expressing appreciation for presentation outlining the state's commitment to highways in our community.
6. To Citizens -- Welcoming letter for the St. Mary's County Rotary Guide.
7. To MD Department of the Environment regarding Sewage Sludge Utilization Permit Applications (3 sites).
8. To Joseph and Mary Wood regarding Agricultural Tax Credits.
9. To Dr. Israel, SMC Health Department, regarding organization's Mission Statement.
10. To Oran Wilkerson, Potomac River Association, regarding process for resolution of illegal lot issues.

11. To David Brewster regarding traffic dangers at the intersection of MD Routes 4 and 235.
12. To Mike Deasy regarding works of his ministry.

**Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve the Consent Agenda with the exception of Letter 5 (To Secretary Winstead, Department of Transportation). Motion carried.**

Commissioner Brugman requested, and the Commissioners concurred, to amend the letter to Secretary Winstead to include Item No. 4 requesting SHA to look at the possibility of widening Route 5.

**Later in the meeting after the letter was amended, the Commissioners agreed to sign and forward the revised letter with the addition of the referenced fourth item.**

#### **COUNTY ADMINISTRATOR ITEMS**

Present: John J. Kachmar Jr., County Administrator

1. **Southern Maryland Higher Education Center Application  
Business Incubator Project**

Also Present: Martin Fairclough, Director, DECD

(Correspondence to Maryland Department of Business & Economic Development in support of the Southern Maryland Higher Education Center's application to develop a business incubator at its site in California, Maryland.)

During discussion of the letter Commissioner Thompson indicated there were questions that needed to be addressed including the role of the County, the fact that the project will be built on county land, and whether there would be any county subsidy required.

**Commissioner Eagan moved, seconded by Commissioner Brugman, to sign and forward the letter in support of the Business Incubator project as presented. Motion carried; however, Commissioner Thompson stated that she would like assurances the issues she raised have been addressed.**

2. **Budget Amendment No. 98-6  
Animal Control**

Animal Warden Coordinator on a temporary basis while MCI project is in progress - not to exceed six months (\$10,500).

**Commissioner Brugman moved, seconded by Commissioner Eagan to authorize Commissioner Thompson to sign Budget Amendment No. 98-6 as presented. Motion carried.**

3. **Risk Manager Position Description**

(Request Commissioners' approval to advertise at salary range)

**Commissioner Brugman moved, seconded by Commissioner Eagan to approve the job description for the Risk Manager at the salary range as specified. Motion carried.**

**PUBLIC HEARING  
BRETON BEACH ROAD REALIGNMENT**

Present: Dan Ichniowski, Director, Department of Public Works

The Commissioners conducted a public hearing on the realignment of Breton Beach Road (County Route 30237) and the extension of approximately 300 feet of Camp Maria Road, a private road. These roads are located in the Third Election District.

Hearing no comments from the audience, the public hearing was closed. A copy of the tape is on file in the Commissioners' Office. The record will remain open for ten days for comments.

**PUBLIC HEARING  
ABANDONMENT OF A PORTION OF MILLSTONE LANDING ROAD**

Present: Dan Ichniowski, Director, Department of Public Works  
Douglas S. Durkin, County Attorney  
Tom Daugherty, Representing Petitioners for Abandonment of Road

The Commissioners conducted a public hearing on the request to abandon a portion of Millstone Landing Road from approximately 175 feet easterly of the Green Holly Road intersection to the end of the road at Patuxent River Naval Air Station a distance of approximately one mile. The road is located in the Eighth Election District. During his introduction Mr. Ichniowski advised that there were 16 parcels that were affected by the abandonment. He also stated that current subdivision regulations allow for eight lots on a private drive, and this may cause concerns if there is future development on the road. Maintenance is proposed to be done by the property owners as well as replacement of the bridge on the road.

Mr. Daugherty reviewed the background of the request and reiterated his comments from the August 12 meeting stating that Millstone Landing Road runs to the Bradley property (and stated that from that point on it is called Bradley Farm Lane, which covers the bridge and dirt road and abuts the NAS property). All the property owners are willing to take on the responsibility for maintaining and replacing the bridge. Bids to replace the bridge came in at \$162,250.

The hearing was opened for comments from the audience.

**Ed Ruskowsky (Esperanza Farms)** - Submitted petitions with 208 signatures opposing the privatization of Millstone Landing Road stating that the Esperanza community uses the road for walking, jogging, biking, fishing, and crabbing. He further indicated that he was concerned if the road was privatized because it was his understanding that the Navy would use it for emergency evacuation purposes.

**Kathryn Bogdan (Esperanza Farms)** - Expressed opposition to privatizing stating she had concerns for safety for the children in the area.

**Tom Balowe (NAS)** - Requested that there be continued access for emergency purposes and that the road be maintained for emergency use.

**Wayne Walker - (Esperanza Farms)** Stated that the children in the area are enjoying use of that portion of Millstone Landing for walking and biking.

**John Weiner (Esperanza Farms)** - Stated that Millstone Landing Road has been used by residents of Esperanza as a recreational area (walking, jogging, biking), and that the bridge is the only public access to Green Holly Pond which is a good place for crabbing; expressed concern that if the road is abandoned, property owners could put up a gate or "no trespassing" signs; stated there were 249 tax accounts in Esperanza paying over \$368,000 a year in property taxes to the County (which is enough to build two bridges).

**David Triantos** - Questioned a letter in the *Enterprise* that expressed concerns about a public landing that would be affected. (Mr. Daugherty responded that that letter was regarding a bridge on the Navy Base.)

**Commissioner Eagan** - Indicated that people have shown interest in this property for recreational purposes, and if the County does maintain it, she questioned whether there would be increased traffic and questioned the condition of the road. (Mr. Ichniowski responded that the road is surface treated but that the bridge is in poor condition; if the County maintains ownership it would continue maintenance. He stated that unless there is further development on the road he did not anticipate additional traffic.)

**Commissioner Jarboe** - Referred to the Navy's comments regarding evacuation and questioned the amount of right-of-way. (Mr. Ichniowski advised that his department has not done a property or title search, but noted that the County would have prescriptive easements. Mr. Daugherty pointed out that there was never a deed given to the County for the road; that there were rights-of-way for property owners to go through Bradley property; there were letters from years ago from the Bradley's questioning why the County did work on the road as the Bradley's graded and removed snow from the road, and built and repaired the bridge. He further indicated that the property owners would be willing to grant access to the Navy. He stated that the creek was private property owned by the Bradley's and use by the public was trespassing; however, the property owners had no intention of closing off the road to bikers and joggers, but wanted to limit vehicular traffic.)

**Bill McCarthy (Esperanza Farms)** - Expressed concerns regarding loss of recreational area and loss of valuable land by the County; stated that the area is in the AICUZ (PC22, a potential crash zone); questioned the standards that the bridge would be built if abandoned by the County and how emergency vehicles could get across it; and referred to the road as an evacuation route through the North Gate; questioned the ramifications of bridge collapses.

**Paul Fletcher (Esperanza Farms)** - Stated he was not in favor of a taxing district to pay for the road; stated he was one resident of Esperanza that was not in favor of not abandoning the road. (The Commissioners advised that the road would not be improved through a special taxing district, but by the property owners.)

**M.J. Ruskowsky (Esperanza Farms)** - Referred to the beauty of the area and stated that she did not want it to become private.

**Agnes Bean** - Stated that if the Esperanza community wanted to use the private road for their enjoyment, it would no longer be private and no longer enjoyable.

**Wayne Walker (Esperanza Farms)**- Questioned if the bridge was private why the county got estimates for repairs. (Mr. Ichniowski advised that the road was included in the County's records for maintenance, and the County receives gas tax revenues. There is evidence that the County has made repairs to the bridge in the past.

**Buzz Pickett** - Stated he did not mind having families walking and biking on the road; however for 36 years he has had to clean up trash from other people and had to hire a truck to haul out a sofa and old chair.

**Commissioner Chesser** - Requested an assessment from the Navy regarding the road (possibility of road being used and needed by the Navy; e.g., emergency vehicles/evacuation.)

**Commissioner Thompson** - Inquired whether the County could require a maintenance agreement if the County was to abandon the road. (County Attorney Durkin stated that unless done through a planning and zoning subdivision process, he was not aware of any law to allow the Board to place conditions on a private road. If this is a title issue determination of ownership lies with District Court.)

**Commissioner Jarboe** - inquired whether there was proof of the County's ownership of the road. (Mr. Durkin indicated that in order to address this question from a legal point of view, he would have to have the facts, otherwise it would be speculation.)

After questions and comments, the Commissioners discussed whether to continue the hearing or to hold the record open for ten days. (If the hearing was continued, the Commissioners would have to set the date and time; if the record remained open for ten days and the Commissioners decided additional information was needed, a new hearing would have to be scheduled.)

After discussion the Commissioners agreed to continue the hearing to Tuesday, October 21, 1997 at 6:30 p.m.

#### **MYRTLE POINT PARK AMENITIES RECREATION AND PARKS BOARD RECOMMENDATIONS**

Present: Phil Rollins, Director, Recreation and Parks  
James Burgan, Chair, Recreation and Parks Board  
Recreation and Parks Board Members (Jody Payne, Julie Owens, Kevin Harris, Tom Longabardi, Jane Sypher)  
Planning Commission Members (Frank Taylor, Shelby Guazzo, Cheryl Ahearn, Hal Willard, Bob Parkinson)  
Planning Staff (John Grimm, Director, Keith Lackey, Deputy Director)

Mr. Burgan, on behalf of the Recreation and Parks Board, to present the results of the Board's special meetings regarding the amenities and facilities to be considered by the consultant in the development of the Myrtle Point Park Master Plan. In developing its recommendations, the R&P Board considered citizen input from public forums, written surveys, and other informal sources. Recommended amenities/facilities include: open multi-purpose area; soccer/lacrosse/field hockey/ rugby fields; tennis court(s); basketball court(s); open-air amphitheater; playground; picnic areas; pavilion; historical/nature/visitor center; hiking/biking trail; undisturbed natural areas; access to beach; fishing pier; boat rentals; parking and road system. Also included in the report were the votes of the members of the Recreation and Parks Board.

In conclusion Mr. Rollins advised that the commissioners did not need to make a decision this date, but over the next month to come to a consensus as to what to advise the consultant to put in the Master Plan.

Ms. Guazzo pointed out that the Master Plan will cover ten years and that there may be reconsideration of certain items during that time and changes could be made upon recommendations of the Commissioners' advisory boards.

The Planning Commission will include discussion of the Myrtle Point Park amenities at its meeting on October 6.

#### **COLTON ENDOWMENT FUNDS**

Present: Gene Carter, Director, Office on Aging

At the request of Commissioner Eagan, Mr. Carter appeared before the Commissioners to provide clarification regarding the process for the use of the Colton Endowment Funds. Commissioner Eagan referred to a letter sent by the Commissioners in October of 1995 regarding the establishment of a Task Force which will consider proposals for the use of the Colton Endowment Funds and make recommendations to the Commissioners. She stated it was her understanding that the County was going out for RFP's and questioned the fact that if the funds are with the State, why is the County going through the RFP process. She also questioned the status of this issue.

Mr. Carter provided the background regarding the Endowment Funds; the stipulation in the Colton will that the funds be used for senior housing; the delay in making the appointments of the Task Force by the Commissioners (March 1996); solicitation by the Task Force for input as to the use of the funds; responses from organizations who had experience; the development of a list of specifications to those that had expressed interest for additional information; correspondence from Chair of Cedar Lane Apartments regarding its proposal; and concerns regarding that the Task Force may have engaged in formal solicitations from offerers. The Commissioners had determined that the Task Force was not empowered to solicit proposals in terms of RFP's and terminated the work of the Task Force. Mr. Carter pointed out that the RFP's will be a vehicle to develop ideas and concepts which will then be reviewed by the Commissioners and would forward recommendations to the State.

During discussion Mr. Kachmar referred to the possible conflicts of interest and the appearance of conflicts of interest and stated that only private, non-profit organizations can be recipients of these funds. He further emphasized that the Board of County Commissioners are the evaluators of the proposals.

### **REQUEST FOR EXECUTIVE SESSION REORGANIZATIONAL PROPOSAL**

Commissioner Chesser moved, seconded by Commissioner Thompson, to meet in executive session to discuss a matter of Personnel (Reorganizational Proposal). Motion failed two to three with Commissioners Brugman, Eagan, and Jarboe voting against. Therefore, the discussion was held in open session.

Commissioner Thompson stated that she believed the Commissioners should receive input from the department heads that will be impacted by this proposal and that they should be in attendance.

By way of overhead charts County Administrator Kachmar reviewed the proposed reorganization as follows:

- \* The overall St. Mary's County Government organizational chart showing the addition of the Office of Capital Projects, Office of Central Services, and Assistant to the County Administrator.
- \* Office of Central Services (which includes Administrative Support, Airport, Procurement, Building Services, and Transportation);
- \* Office of Capital Projects (which includes Capital Planning, Engineering, and Inspection and transfers Supervisor of Engineering Services, Engineer IV, Engineer III, appropriate inspection personnel, and Office Specialist to Central Services).

Discussion/Actions included:

#### **Office of Central Services**

- \* That the department head is a merit employee rather than contract;
- \* Rationale for removing Building Services from Public Works;
- \* Whether Transportation should eventually be a separate department;
- \* That administrative support/telephone communications may eventually be moved to another department;
- \* That the transportation division will result in cost savings to the County;
- \* That if Transportation and Airport are eventually removed from Central Services, it will make Central Services more manageable;
- \* Issue of span of control.

Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve the concept of the Office of Central Services with the stipulation that if in the future that the workload becomes too burdensome to look at moving administrative support/ telephone communications to another department or entity. Motion carried three to two with Commissioners Thompson and Chesser voting against stating that they did not believe Building Services should be removed from Public Works.

**Office of Capital Projects**

Commissioner Brugman moved, seconded by Commissioner Eagan, to approve the Office of Capital Projects Organizational Chart as presented. Motion carried three to two with Commissioners Thompson and Chesser voting against.

**Assistant to the County Administrator**

**Deputy Director, Department of Economic Development**

(Request by County Administrator to develop a new job description for the Assistant to the County Administrator instead of the current Administrative Officer position; to re-establish the position of Deputy Director in the Department of Economic Development.)

Commissioner Brugman moved, seconded by Commissioner Jarboe, to direct the County Administrator to develop a job description, with pay grade for the Assistant to the County Administrator and submit it to the Board of County Commissioners for approval. Motion carried.

**EXECUTIVE SESSIONS**

Commissioner Chesser moved, seconded by Commissioner Eagan, to meet in Executive Session to discuss a matter of Potential Litigation (Core Service Agency) and Litigation (St. Mary's Disposal), as provided for in Article 24, Section 4-210(a)8. Motion carried four to one with Commissioner Jarboe voting against stating that he did not believe in "potential" litigation.

(Commissioner Jarboe left the meeting at 6:30 p.m.)

**Potential Litigation (Core Service Agency)**

Present: Commissioner Barbara R. Thompson, President  
Commissioner D. Christian Brugman  
Commissioner Paul W. Chesser  
Commissioner Frances P. Eagan  
John J. Kachmar Jr., County Administrator  
Douglas Durkin, County Attorney  
Marilyn Carifi, Director, Mental Health Authority  
Tom Connors, Case Manager  
Judith A. Spalding, Recorder

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

Time Held: 6:35 p.m. - 7:40 p.m.

Action Taken: The Commissioners discussed issues relative to potential litigation and agreed to continue discussion at next week's meeting.

**(Follow Up to Executive Session - Core Service Agency)**

Commissioner Chesser moved, seconded by Commissioner Eagan, to direct staff to contact Marie Daugherty, Chair, Mental Health Authority, to request that the Mental Health Authority not conduct election at its annual meeting scheduled for Thursday, September 25, 1997, and further to request the Authority's Executive Committee and Dr. Israel, the County Health Officer, to attend the County Commissioners' executive session on Tuesday, September 30. Motion carried.



**Potential Litigation (St. Mary's Disposal)**

Present: Commissioner Barbara R. Thompson, President  
Commissioner D. Christian Brugman  
Commissioner Paul W. Chesser  
Commissioner Frances P. Eagan  
John J. Kachmar Jr., County Administrator  
Douglas Durkin, County Attorney  
Jon Grimm, Director, DPZ  
Judith A. Spalding, Recorder

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

Time Held: 7:45 p.m. - 8:15 p.m.

Action Taken: The Commissioners discussed the referenced issue and agreed to continue discussion at a later meeting.

**ADJOURNMENT**

The meeting adjourned at 8:15 p.m.

**Minutes Approved by Board of  
County Commissioners on 9/30/97**

*Judith A. Spalding*

**Judith A. Spalding  
Recording Secretary**