

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
October 21, 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
Mary M. Langley, Recording Secretary

CALL TO ORDER

The meeting was called to order at 1:15 p.m.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve the minutes of Tuesday, October 14, 1997 as amended. Motion carried.

APPROVAL OF BILLS

Commissioner Chesser moved, seconded by Commissioner Eagan, 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 (to delete airport executive session and to add executive session on a personnel issue - Mental Health Authority Board). Motion carried.

CONSENT AGENDA

Correspondence:

1. To Kathryn H. Bradley regarding the possible abandonment of Millstone Land Road.
2. To Commission on the Environment regarding comments on the Draft Comprehensive Land Use Plan.
3. Various letters to individuals regarding Myrtle Point Park
 - a. Lucy Peterkin
 - b. Christine Schmittener
4. Various letters to individuals regarding the Draft Comprehensive Land Use Plan related to possible expansion of development district lines
 - a. Alma Murphy
 - b. Wanda Florence
5. Various letters to individuals regarding the Draft Comprehensive Land Use Plan related to Agricultural Overlays
 - a. Potomac River Association
 - b. Friends of St. Mary's River
6. To various letters to individuals regarding the adoption of Smart Growth Initiatives
 - a. Thomas Bailey III
 - b. Henry and Rose Ann Friess
7. To Norman Norris regarding issues related to the construction/renovation of the courthouse

8. To the United States Coast Guard inquiring as to reasons for denying the placement of a light at Cuckhold Creek.
9. To various individuals regarding the problems with noise at the Charlotte Hall House of Ribs.
 - a. Melodie Stokes
 - b. Mary Williams
10. To Democratic Club of St. Mary's County regarding Commissioners' recent meeting with elected officials from Montgomery and Prince George's Counties
11. To Karen Abrams, Esquire, regarding the removal of the Sophie Clayton property from the Reilly PUD.
12. To Michael Davis, Esquire, regarding the abandonment of the county's right of way on Lots 10 and 11 of Brubacher Subdivision in Medley's Neck
13. To Board of Charles County Commissioners regarding possibility of a regional effort in the Governor's Rural Legacy Program
14. To Louise Somerville regarding purchase of Clements Landfill property.

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve the Consent Agenda with the exception of items #7 and #8. Motion carried.

Commissioner Thompson objected to the statement in correspondence to Norman Norris related to the courthouse facility being able to meet the needs of the judiciary for a least 20 years, noting that a letter was received from the consultant to the judiciary stating that the proposed facility would serve need for 5 years. Commissioner Chesser objected to the statement related to cost comparisons of the renovation versus new construction, noting that actual costs related to relocation of courtrooms and no-noise tolerance accommodations during the renovation/ construction phase have not been determined.

Commissioner Jarboe moved, seconded by Commissioner Brugman, to forward correspondence as presented to Norman Norris regarding issues related to the construction /renovation of the courthouse. Motion carried 3 to 2 with Commissioners Thompson and Chesser opposed.

It was noted by Commissioner Jarboe that a letter was submitted by a citizen, John Shepherd, for the Commissioners' signature to the Coast Guard requesting the placement of a light in Cuckhold Creek. As information was not available concerning the reason for the Coast Guard's denial of initial requests made, staff prepared the subject correspondence to further research the issue. Commissioner Jarboe stated that the process would be more pro-active by writing to request the installation of the light, said letter to be included in next week's Consent Agenda. Commissioners Thompson and Chesser felt the Board should research the issue before sending the request.

Commissioner Jarboe moved, seconded by Commissioner Brugman, to draft a letter similar to the one submitted by John Shepherd requesting that the Coast Guard place a navigational light in Cuckhold Creek. Motion carried four to one with Commissioner Thompson opposed.

COUNTY ADMINISTRATOR ITEMS

Present: John J. Kachmar Jr., County Administrator

1. Budget Amendments

a. No. 98-8 - Human Resources - \$800

(Transferring funds for maintenance of equipment [copy machine] from Human Resources to Central Services to coincide with the location of machine)

Commissioner Jarboe moved, seconded by Commissioner Brugman, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 98-8. Motion carried.

b. No. 98-9 - Central Services - \$125,000

(Transferring funds from completed capital projects and excess transfer tax to cover costs of airport property acquisition to extend Runway 11.)

Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 98-9. Motion carried.

c. No. 98-10 - St. Mary's County Public Schools - \$25,228

(Transferring funds from completed CIP projects to cover unexpected costs relating to roof and HVAC replacement projects at Carver Elementary School.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 98-10. Motion carried.

d. No. 98-11 - Office of the County Administrator - \$20,000

(Transferring funds from the reserve account to provide funding to perform a Citizens Opinion Survey.)

Commissioner Chesser moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 98-11. Motion carried.

2. Board of Education Budget

Also Present: Dr. Patricia Richardson, Superintendent of Schools
Elaine Kramer, Director of Budget and Finance

a. Categorical Transfer - \$50,000

(As required by state law [Section 5-105 of the Education Article of the Maryland Annotated Code], requesting County Commissioners' approval of a budget category transfer from the Instructional Salaries category to the Mid-Level Administration category for the purposes of adding an assistant principal position to the Technical Center staff.)

Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and sign correspondence to the Board of Education granting the transfer request. Motion carried.

b. Categorical Restructuring - FY '98

(In accordance with action taken by the Maryland General Assembly and the financial reporting requirements of the Maryland State Department of Education, requesting County Commissioners' approval for a category restructuring of the FY '98 budget which includes the establishment of categories for mid-level administration, instructional textbooks and supplies, and capital outlay.)

Commissioner Chesser moved, seconded by Commissioner Eagan, to approve and sign correspondence to the Board of Education granting the categorical restructuring request. Motion carried.

3. ASB Capital Management, Inc. Acquisition

(Acquisition of ASB, a division of Nations Bank, by Chevy Chase Bank is underway. The Office of Finance recommending that investments remain with Nations Investment group, along with the County's checking account, in order to avoid dealing with two banking institutions. The daily sweep by Nations investment group would automatically ensure an adequate balance in the county's checking accounts at all items and avoid the introduction of complications with fund transfers between the two banks.)

Commissioner Jarboe moved, seconded by Commissioner Brugman, to approve the retention of investments with Nations investment group and to authorize the signing of related documents. Motion carried.

4. St. Mary's Transit Service

(Consideration of correspondence to the Mass Transit Administration advising that the new point of contact for correspondence and grant agreements related to St. Mary's Transit Service is now the Office of Central Services due to the recent reorganization.)

Commissioner Jarboe moved, seconded by Commissioner Brugman, to approve and authorize Commissioners Thompson to sign the correspondence as presented. Motion carried.

5. St. Mary's Nursing Center

(Annual Application to the MD Department of Health and Mental Hygiene, Office of Licensing and Certification Programs

Commissioner Chesser moved, seconded by Commissioner Jarboe, to approve and authorize Commissioners Thompson and Eagan to sign the application form as presented. Motion carried.

6. Department of Public Works Documents

a. Traffic Resolutions establishing 25 mph speed limits on the following county roads located in the 7th Election District.

- 1) #97-31 - Beach Road, Route 30910
- 2) #97-32 - Charles Hall Road, Route 30139
- 3) #97-33 - Point Breeze Road, Route 30141

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and sign the referenced traffic resolutions as presented. Motion carried.

b. Agreement Addendums extending completion dates for:

- (1) **Glebe Run Subdivision** extending completion date to September 1, 1998, backed by a Letter of Credit in the amount of \$66,300 provided by Nations Bank.

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

- (2) **Lynndale Estates** extending completion date to October 1, 1998, backed by a Letter of Credit in the amount of \$236,300 provided by Nations Bank.

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

- (3) **Brooks Cluster Subdivision** extending completion date to October 1, 1998, backed by a Letter of Credit in the amount of \$184,500 from First National Bank of St. Mary's.

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Addendum as presented. Motion carried 4-0-1 with Commissioner Eagan abstaining in that she is on the Board of Directors for First National Bank of St. Mary's.

- (4) **Wildewood Parkway Stream Crossing** extending completion date to December 1, 1998; backed by a Letter of Credit in the amount of \$10,000 provided by First National Bank of St. Mary's.

Commissioner Chesser moved, seconded by Commissioner Brugman, to approve and authorize Commissioner Thompson to sign the Addendum as presented. Motion carried 4-0-1 with Commissioner Eagan abstaining in that she is on the Board of Directors for First National Bank of St. Mary's.

- (5) **Wildewood-Sycamore Hollow** extending completion date to September 1, 1998; backed by a Letter of Credit in the amount of \$38,000 provided by First National Bank of St. Mary's.

Commissioner Brugman moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Addendum as presented. Motion carried 4-0-1 with Commissioner Eagan abstaining in that she is on the Board of Directors for First National Bank of St. Mary's.

- c. **Agreement** for Christmas Hill Subdivision with completion date of September 1, 1998, backed by a Letter of Credit in the amount of \$53,700 provided by Maryland Bank & Trust Company.

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

7. **Piney Point Acquisition Loans**

(In response to the county's request in May 1996, the Maryland Department of Natural Resources has forgiven the remaining balance [\$423,501.91] of the 1992 Waterway Improvement Loan used to purchase Piney Point Public Landing. County was using local Program Open Space funds to make the annual Waterway Improvement Loan repayment of \$20,167 per year, requiring the submittal of yearly grant applications to take money from one state fund to pay off the other.)

- a. **Information Release**
(Requesting permission to issue a release concerning the forgiveness of the Piney Point Public landing Acquisition loan.)

By consensus the Commissioners authorized the distribution of the Information Release as amended.

- b. **Correspondence**
(Consideration of correspondence expressing appreciation for support of the County's request to retire the above subject loan to the Maryland Department of Natural Resources, Senator Dyson and Delegates Wood, Slade and O'Donnell.)

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

SICK LEAVE DONATION PROGRAM (DISCUSSION/DECISION)

Present: John J. Kachmar, County Administrator

Mr. Kachmar presented a proposed amendment to the Leave Donation Program currently under consideration by the County Commissioners to allow the transfer off personal leave and limited sick leave in addition to annual leave; to allow a waiver process to allow a waiver process to the length of service requirement of six months to receive a donation; and to exclude sick leave from unused donated leave returned to the employee donors. The Commissioners presented the referenced Proclamation designating November as.

Commissioner Eagan recalled that the donation of sick leave and personal leave were eliminated during previous discussions of the Sick Leave Bank proposal, but was unable to recall the exact reasons. She requested that in the future when the Commissioners are requested to change an original proposal presented to them, that tapes or minutes be made available denoting the Commissioners' discussion on the specified issues.

Commissioner Chesser moved, seconded by Commissioner Brugman, to accept the Sick Leave Donation policy as previously submitted by Acting Personnel Officer and amended by the County Administrator. Motion carried.

Commissioner Jarboe moved, seconded by Commissioner Brugman, to implement the Sick Leave Donation Program immediately. Motion carried.

ECONOMIC DEVELOPMENT COMMISSION — STRATEGIC PLAN

Present: Roger Hill, President, Economic Development Commission (EDC)
Cheryl Ahearn, Past President, EDC
Charles Hayden, Member, EDC
Martin Fairclough, Director, DECD

Roger Hill presented the Strategic Plan recently adopted by the EDC which sets forth three initiatives: 1) encourage the continuation, expansion, and development of well-paying jobs in the technology sector; 2) support initiatives to enhance local quality of life in the areas of housing, education, recreation, culture, and heritage; and 3) encourage investment and development of the county's physical infrastructure to facilitate new business development.

Mr. Hill also presented EDC's conclusions on discussions concerning recent issues, including Myrtle Point (support an active park but divided on the issues of power boat launches--"water rich and access poor"); the First Colony Development (recommend approval, aesthetics one of the nicest in the county); and fast track permitting (criteria too low, not enough use of process to be an issue; however, would send a negative message if eliminated); Route 235 expansion and traffic (marginal businesses may lose customers because of avoidance of construction area, largest chunk of BRAC relocations are here now); growth (there is a potential for overbuilding, people coming with BRAC are the kind you want in St. Mary's County, should have room for that kind of development).

ZONING ORDINANCE ROAD NAME CHANGE

(Discussion/decision, follow up to 10/07/97 Public Hearing. Request to change "T. Kohut Lane" to "Red Cedar Lane", located off Bauer Road in the First Election District.)

Commissioner Brugman moved, seconded by Commissioner Chesser, to approve Ordinance No. Z97-06 as presented. Motion carried.

ORDINANCE

EROSION AND SEDIMENT CONTROL PLAN REVIEW FEES

(Discussion/decision, follow up to Public Hearing of 10/07/97. Request the adoption of one of the four proposed fee options to supercede all previous fee schedules.)

Also Present: Bruce A. Young, District Manager, St. Mary's Soil Conservation District

Mr. Young reported that no comments had been received in the District Office pertaining to the Public Hearing and that Soil Conservation District is recommending the adoption of Option 3A which will provide an application fee of \$20 and no review fee for review of standard plans and an application fee of \$100 for other than standard plans and a review fee of \$125 an acre for the first ten acres and \$50 an acre for each additional acre over ten for the non-standard plans.

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve an ordinance incorporating Option 3A as the Soil Conservation Rate Schedule. Motion carried four to one with Commissioner Brugman opposed.

DEPARTMENT OF PLANNING AND ZONING

All Commissioners were present. DPZ staff present were Jon Grimm, Director; and Peggy Childs, Recording Secretary.

Lexington Park - Tulagi Place Master Plan

Mr. Grimm walked through the revisions to the Plan which resulted from the Commissioners' 1996 work sessions, stating that the emphasis was on providing incentives to encourage the property owners' compliance rather than to require it, in accordance with the Commissioners' direction. No action is being requested at this meeting. If the Commissioners agree with the revisions after their review, the Plan will be remanded to the Planning Commission for its final recommendation and returned to the Commissioners for final decision.

Two questions were raised by the Commissioners which require a further response from DPW; i.e., Commissioner Eagan's query as to whether sidewalks are not *required* in this area by the proposed Comprehensive Plan update and Commissioner Thompson's inquiry as to whether utilities are being placed underground in the widening of MD Route 235.

Mr. Grimm will provide a response when the Plan is brought back to the Commissioners.

PUBLIC HEARINGS

SPEC #95-1914 - Dick's RVs

Requesting declaration that the sale of new and used recreational vehicles is a permissible use in the I-1 district, in accordance with Section 10.08 of the Ordinance. The subject property contains 1.5 acres, is zoned I-1, and is located on the northwest corner of MD Route 5 and Baptist Church Road; TM 9, Blk 21, Parcel 153.

Contract Purchaser: Richard Smythers

Present: Attorney Joe Densford and Mr. Smythers

Legal Notice published in The Enterprise on 10/1/97 & 10/8/97

#A-1 Certified Receipts of notification to contiguous property owners

Table 2.2 of the Zoning Ordinance allows for sales of used autos in the I-1 zone, but prohibits sales of manufactured homes and campers. Automotive repair and retail sale of accessory items in the I-1 district were approved by the Commissioners on 9/12/95. If this request is approved, the 9/12/95 decision will be superseded and the retail sale of new and used RVs will also be allowed.

Attorney Joe Densford advised that Mr. Smythers has been repairing/servicing RVs at this location since October 1995. Once in a while customers or friends have asked to display an RV for sale on this property and recognition by Mr. Smythers that this market exists has prompted this request. There will be no appreciable difference to the public or adjacent property owners in the way the business is operated or perceived by the public, as RVs have been parked

there awaiting repair or pickup; the only difference is that there may be a few more vehicles. No additional structures will be constructed. This property is the former site of Guy Excavating.

On August 25, 1997 the Planning Commission, after public hearing, found that the proposed sale of recreational vehicles *does* reflect the nature of uses permitted in the I-1 zoning district and that there is no appreciable difference in the quality, character, or degree of this use and uses currently permitted in the I-1, and recommended the County Commissioners approve a zoning text amendment to allow the proposed use.

Commissioner Thompson opened the hearing to public comment. Hearing none, she closed the public hearing at 3:40 p.m., leaving the record open for 10 days for written comment. Staff to bring back in two weeks.

ZPUD #97-0727 - Patuxent Radio Partners

Requesting a zoning amendment from Low Density Residential (RL) to a single-use Planned Unit Development (PUD-CP). The property contains 15.59 acres and is located on the south side of MD Route 4, west of its intersection with Indian Bridge Road; Tax Map 42, Block 7, Parcel 80.

Legal Ad published in The Enterprise on 10/1/97 & 10/8/97

#A-1 - Certified Receipts of notification to contiguous property owners

Owners: Patuxent Radio Partners, LLC

Present: Attorney Phil Dorsey

Larry & Shawn Day, and Matt Eddy, of Day & Associates, Agent
Steve McBride, of The Evans Company

This rezoning request is unique in that it is for a single-use PUD for a self-storage facility off of Route 4 (St. Andrews Church Road). After conducting a public hearing on 8/25/97, the Planning Commission recommended approval as contained in their Resolution, which is included in the 10/9/97 Staff Report. The Resolution includes the developer's proffers for a monument sign for the project, to be visible from Route 4, and to provide the required transportation buffer along Route 4 to allow future widening to a 4-lane highway.

This 44.04 acre property is bisected by the western branch of the St. Mary's River, which divides the parcel into RL/RPD zoning districts; approximately 15.59 acres of the RL portion of the property is being requested for rezoning to PUD-CP. Applicant views self-storage as the best use for the property because it will not require water/sewer and is sensitive to the environment. A 95,000 sq. ft. facility is planned, with storage spaces from 5' X 5' to 10' X 30'. An office manager is intended from 9:00 a.m. to 5:00 p.m.; a security system with pass cards and camera will allow customer access until 10:00 p.m. Security lighting which will be unobtrusive to the neighbors will also be provided. The structures will have metal walls with roll-up doors with an exterior face of decorative masonry; fire walls will be provided every 90 ft. in accordance with NFPA requirements. Decorative fencing with masonry every 20 ft. will be provided in front; vinyl-dipped chain link fencing will be provided around the perimeter of the property.

The property is entirely wooded and approximately 12.12 acres is preserved in forest conservation. A 100 ft. building restriction line is proposed for all buildings, with a 40 ft. vegetative buffer provided from the RPD zoning district. A 800 ft. setback will be provided from the residential properties on Sandra Lane. A 100 ft. natural vegetation buffer will be provided from the stream as well from the 10,000 sq. ft. stormwater management pond. A 60 ft. BRL will be provided from St. Andrews Church Road, including a 25 ft. dedication for the future widening of Route 4 and a 35 ft. "C" vegetative buffer.

The following letters in support of the rezoning were entered into the record:

#A-2 Kristy Clements dated 9/4/97

#A-3 Sandra Huett dated 9/3/97

#A-4 Affidavit of Steven Banks, dated 8/15/97

Commissioner Chesser asked about a dry hydrant for the pond. Mr. Eddy responded that the pond will be an infiltration pond which will not support a dry hydrant; however, they worked closely with the fire department and DPZ and the fire walls being provided will meet NFPA requirements. Commissioner Jarboe pointed out that the applicant could put 30 homes on the 15 acres, which would mean many more vehicle trips per day. Commissioner Eagan commented on

the need for storage space, stating she had tried to store something for two months this summer and there was nothing available.

Mr. Dorsey entered into the record as #A-5 his request that paragraph 12 of the Resolution be amended to reflect the 25 ft. transportation buffer the applicant has agreed to provide to the State.

Commissioner Thompson opened the hearing to public comment. Hearing none, she closed the public hearing at 4:04 p.m., leaving the record open for 10 days for written comment.

Staff to bring back in two weeks for discussion/decision.

COUNTY COMMISSIONERS' TIME

Domestic Violence

Commissioners Thompson and Eagan earlier in the day attended the Domestic Violence Month Annual Luncheon sponsored by the St. Mary's County Commission for Women. They noted the need to make women aware of the magnitude of the problem and to let them know that there is a place to go for assistance; the telephone numbers for Walden-Sierra and the Women's Center were provided.

Meeting Schedule for December

Commissioner Jarboe noted that there are five Tuesdays in December and that the Commissioners are required to meet four times a month. He requested that the Board take one of those Tuesdays off due to the holidays. Following discussion, **it was the consensus of the Board that no Commissioner meeting be held on December 30, 1997.**

EXECUTIVE SESSIONS

Commissioner Eagan moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss property acquisition related to the Fifth District Park, as provided in Article 24, Section 4-210(a)1. Motion carried.

1. Property Acquisition (Fifth District Park)

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
Douglas S. Durkin, County Attorney
Phil D. Rollins, Director, Department of Recreation and Parks
Mary M. Langley, Recording Secretary
Authority: Article 24, Section 4-210(a)1
Time Held: 4:20 p.m. - 4:50 p.m.
Action Taken: Staff provided information related to property acquisition for the Fifth District Park, and the Commissioners gave direction to staff.

2. Personnel (Mental Health Authority Board)

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
Douglas S. Durkin, County Attorney
Phil D. Rollins, Director, Department of Recreation and Parks
Mary M. Langley, Recording Secretary
Catherine L. Vestraci, Psychotherapeutic Services of St. Mary's (PSSM)
Cindy Newman, PSSM
Dr. Ebenezer Israel, Health Officer
Marilyn S. Carifi, Executive Director, Mental Health Authority
Ella May Russell, Director, Department of Social Services (DSS)
Alexis Zoss, DSS

Authority: Article 24, Section 4-210(a)1
Time Held: 4:50 p.m. - 5:47 p.m.
Action Taken: Prior to meeting with individuals gathered to participate in the executive session, the Commissioners discussed with staff issues related to the Mental Health Authority Board and were advised of the options available to them for remedy. At 5:25 p.m. the Commissioners met with individuals collectively in Room #14, continuing the executive session. The Commissioners indicated the limits of their authority relative to the Mental Health Authority Board and agreed to take action in open session.

**CONTINUATION OF PUBLIC HEARING OF 9/23/97
ABANDONMENT OF PORTION OF MILLSTONE LANDING ROAD**

Also Present: Dan Ichniowski, Director, DPW
Tom Daugherty, Representing Petitioners for Abandonment of Road

The Commissioners conducted a continuation of a public hearing on the request to abandon the lower 6/10 mile of Millstone Landing road and all of the Bradley Farm Lane, located in Eighth Election District. Recapping the public hearing, Dan Ichniowski stated that a petition has been received from the property owners to take on the responsibility for maintaining the road and replacing a bridge along the road currently posted with a three-tone weight limit. Commissioner Thompson stated that since the last hearing the County Attorney has determined that the road is indeed a county road and that the Commissioners have authority to abandon it should they desire. Commissioner Thompson also indicated that she had spoken with Captain Paul Roberts who indicated that the navy would require access to the road and a substantial bridge that could handle a fire truck or 40,000 tons. It was not an issue to Navy as to whether the road was publicly or privately owned.

The hearing was opened for comments from the audience.

Jim Bradley (Property Owner; Bradley Farm Lane) — Stated that he has an agreement with a bridge contractor for a replacement bridge which will have a loading factor of HS-27 (54,000 tons), constructed of welded steel beams, with a 50-year life.

Tom Daugherty (Property Owner along road and representative of petitioners for abandonment) — Provided information relative to the ownership of road over a period of time as shown in surveys and numerous deeds, as presented in correspondence to the Commissioners dated October 15, 1997, noting that the county has a presumption of ownership. Green Holly Pond, formerly known as Dillons Creek, is non-navigable tidal wetlands and property deeds show that property lines extend to the center of the creek. Therefore, this is not a public creek and anyone using it without permission of an adjoining property owner is trespassing. He stated that the property owners have no problem with the residents of Esperanza Farms using the road for walking and biking but wanted to limit vehicular traffic.

Ed Ruskowsky (Esperanza Farms) — Stated that Green Holly School is concerned with the privatization of this road as they use it as an evacuation route for that school. There is a need to ensure that this bridge is going to be properly maintained over the years.

Kathryn Bradley (Bradley Farm Lane) — Stated that the present bridge has been there for 30 years and is in very bad condition, and the one they are proposing to build is for 50 years at least.

Commissioner Jarboe — Stated that the alternative to abandonment is to bring the road up to county standards with a two lane road and bridge to provide morning and evening access to the Navy base. That would give it a truly public use. The county would need to secure a cul-de-sac to provide an area for vehicles to turn around and right-of-ways for shoulders. The public would have access to the bridge for crabbing. Having said that, he questioned if that is what everybody wants. He stated that should the county not abandon the road, he would push to have the public road made truly public.

Commissioner Chesser — Inquired as to whether privatizing the road from the bridge to the Navy gate would be an option.

Dan Waters (Esperanza Farms) — Stated that privatizing the road was not going to solve the problem of people coming in there at nights.

M. J. Ruskowsky (Esperanza Farms) — She was asked to leave the area by property owners when she used the bridge to catch minnows. Public Works informed her she had a right to use the area on both sides of the bridge because the county placed rocks for erosion control there.

Sue Smith (Esperanza Farms) — Doesn't feel there is a real traffic safety problem on this road. Privatizing the road is okay for the current property owners, but what about after 25 years when the property changes hands and the new owners don't want to maintain it. Would like to see the road kept like it currently is.

Helen Daugherty (Millstone Landing Road) — Informed Commissioner Jarboe that the bridge cannot be widened because that it wetlands. It would probably not be feasible to think about it in terms of expense. She indicated that the petition the Commissioners received not to the abandon the road is not limited to Esperanza Farms and that 266 petitioners is not a ground swell of support against it.

Nina Chera (?) (Esperanza Farms) — Stated that her only interest in the topic is to ensure that her children will be able to continue using the road to ride their bicycles.

Ms. Hollinger (Millstone Landing Road) — Her parents live on that road and she is concerned with the steady stream of traffic and people using private property to turn around.

Bill McCarthy (Esperanza Farms) — Stated that verbal promises don't count. Need to amend deeds to make them permanent.

Karen Miller (Esperanza Farms) — Doesn't understand why her community is feeling so possessive about this. There is nothing holding them back from using that road. She has a sign at the end of her driveway stating "Beware of Dog, Keep Out," and that doesn't stop people from coming on her property.

Ned Clarke (Esperanza Farms) — he noted that private property in Town Creek was provided for resident access to the water; however, it wasn't officially written in the deed. The owner had the option of taking that property back which he did, replacing it with a ball field. If the property owners are willing to provide access to residents of Esperanza Farms, it needs to be written in the deeds. He stated that if it becomes the policy of the County Commissioners to grant privatization of roads to those who can afford it, he will be the next in line to request it for the road to his cul-de-sac.

Ann Chaplin (Esperanza Farms) — Stated that she had been treated rudely when she turned around in the fenced off park area. As to the concerns expressed related to Green Holly School, she inquired as to whether the school board had written the Commissioners about it. If residents are willing to assume this burden, she felt it is an opportunity that the county should take advantage of.

John Weiner (Esperanza Farms) — Stated that the road has been used by the public for more than 20 years, that the County has collected gas tax money, that the deeds of property owners refer to it as a county road and that 30 years ago the request to abandon the road came before the Commissioners. At that time the Navy objected to it and the county turned down the request. He noted that there are 16 property owners who want the road to be abandoned and 266 who do not. It would be setting a precedent to give away public property to benefit private property owners. If it was abandoned. Esperanza Farms would lose a recreational area.

Mark Miller (Lexington Park Volunteer Rescue Squad) — Stated that he did not have an interest as to whether the road was public or private. He is concerned about access to the residents in an emergency. As the bridge stands, no ambulance can get there unless they go through the Naval Air Station (an ambulance is over 3 tons). They have a contingency plan, but obtaining the key to open the gate and the condition of the road on the base would greatly delay the emergency response. He requested that the Commissioners expedite the repair of this bridge.

John Rue (Millstone Landing) — Stated that the County would have to purchase the appropriate right of ways on either side of the road to establish a two-lane road, that the area is wetlands, being a drainage area for Route 235. The issue is not about recreational use of the road but about increased traffic. Residents would like to see the area remain pristine and maintained as a habitat.

Commissioner Eagan — Noted that vehicular traffic was continually mentioned as a problem and inquired if the road could be kept public with signs posted to say "for residents only." (Tom Daugherty indicated there is no way of enforcing the restriction.)

Rona Harding (Millstone Landing) — Stated that people who do not belong in the community are trashing their property. It would enhance the quality of life for those who live there to have this road limited to residential traffic.

Jim Bradley (Bradley Farm Road) — Presented photographs demonstrating that the area is wetlands. It is different than the roads in Esperanza Farms in that they regularly flood. When questioned about the \$162,000 cost to build a replacement bridge, he indicated that to privately build the bridge would cost \$78,000 which the Bradley's will pay.

After questions and comments, the Commissioners closed the Public Hearing at 8:20 p.m. The record will remain open for ten days to receive written comments. Commissioner Thompson stated that the matter would come before the Commissioners have to determine if public interest is served by this road and does it outweigh the interest of those that are asking us to abandon it.

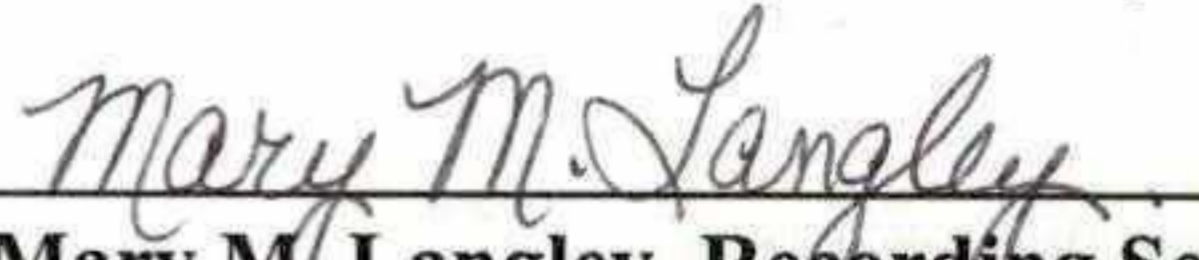
FOLLOW UP TO EXECUTIVE SESSION

Commissioner Jarboe moved, seconded by Commissioner Chesser, to send a letter to the Mental Health Authority Board requesting that the board work out their differences. Motion carried.

ADJOURNMENT

The meeting adjourned at 8:22 p.m.

**Minutes Approved on 10/28/98
by Board of St. Mary's County Commissioners**


Mary M. Langley, Recording Secretary