

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
January 20, 1998**

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 12:43 p.m.

EXECUTIVE SESSION

Commissioner Chesser moved, seconded by Commissioner Eagan, to meet in Executive Session to discuss a matter of Personnel (Office of Central Services), as provided for in Article 24, Section 4-210(a)1. Motion carried.

Personnel (Office of Central Services)

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
James Haley, Director, Office of Central Services
Evelyn Wood, Acting Personnel Officer
Judith A. Spalding, Recorder

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

Time: 12:46 p.m. - 12:55 p.m.

Action Taken: The Commissioners considered a personnel request and agreed to take action in open session.

FOLLOW UP TO EXECUTIVE SESSION

Commissioner Brugman, seconded by Commissioner Chesser to transfer the currently vacated Building Supervisor Services position, Grade 9, to Administrative Services Division of the Office of Central Services to be classified as Administrative Fiscal Supervisor, Grade 8. Motion carried.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve the minutes of Tuesday, January 13, and Thursday, January 15, 1998, as presented. Motion carried 4-0-1 with Commissioner Brugman abstaining.

APPROVAL OF CHECK REGISTER

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

ADDITIONS/DELETIONS TO AGENDA

Commissioner Jarboe moved, seconded by Commissioner Eagan, to accept the agenda with the following amendment (to have the computer bid discussion scheduled for 3 p.m. held in Executive Session). Motion carried.

CONSENT AGENDA

Correspondence to:

1. Managing Editor of The Washington Post concerning recent article related to the removal of the book "Song of Solomon" from required reading lists by St. Mary's County Public Schools.
2. Potomac River Association regarding growth and the voting population in St. Mary's County.
3. Various individuals regarding the proposed upgrade of Park Glen Court: a. Lydia Whorl; b. Friends of St. Mary's River; c. Mark Rhoda; d. Partner, M & R, LLP.
4. President of Board of Education concerning reflective tape on school buses.
5. Anthony Pitt regarding utilization of Internet for tracking of students' grades.
6. Governor Glendening concerning appointment of local coordinator for "Maryland You Are Beautiful" Program.

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

COUNTY ADMINISTRATOR ITEMS

Present: John J. Kachmar Jr., County Administrator

1. **Budget Amendment No. 98-19
Recreation and Parks**
(To support construction cost of Hollywood Soccer Fields - \$218,145)

Also Present: Phil Rollins, Director, Recreation and Parks

The Commissioners questioned Mr. Rollins with regard to soccer fields and past funding given to Recreation and Parks for soccer fields. Mr. Rollins responded that in order to do the project in the Spring, the funds needed to be transferred within this year's budget, or it would have to be placed in the FY '99 budget.

After discussion, Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 98-19 as presented. Motion carried.

2. **Local Government Investment Report**
(Requirement in the Maryland Annotated Code to file an investment report twice a year with the State Treasurer)

Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the Local Government Investment Report as presented. Motion carried.

3. **Grant Documents**

a. **Department of Recreation and Parks**

(Waterway Improvement Fund Grant Application in the amount of \$30,000 for the Abandoned Boat and Debris Removal Program)

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign the Waterway Improvement Fund Grant Application as presented. Motion carried four to one with Commissioner Chesser voting against.

b. **Office of Central Services**

(Americans with Disabilities Act (ADA) Assistance Grant Agreement for Fiscal Year 1998 in the amount of \$72,800 - state funds)

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

4. **Assistant County Administrator - Position Description**

(Authorization to advertise and hire)

Commissioner Jarboe moved, seconded by Commissioner Brugman, to approve and authorize the advertisement and hiring of the Assistant County Administrator position at a Grade 17. Motion carried three to two with Commissioners Thompson and Chesser voting against.

During discussion, Commissioner Thompson stated she would vote against the motion in that she believes the position is replacing a position that had been vacant for almost a year, which had been a Grade 12 and that she could not support the Grade 17.

5. **Boards, Committees, Commissions**

a. **Letters of Appointment**

Recreation and Parks Board

Commissioner Brugman moved, seconded by Commissioner Jarboe, to appoint Wayne Taylor for a term to expire December 31, 2001. Motion carried.

Cable Advisory Committee

Commission for Women

Commissioner Brugman moved, seconded by Commissioner Jarboe, to appoint Thomas H. Jones Jr. to the Cable Advisory Committee for a term to expire December 31, 2002 and Alice Gail Whitney for a term to expire December 31, 2002. Motion carried.

Library Board of Trustees

Commissioner Jarboe moved, seconded by Commissioner Eagan to appoint Joan Marsh and Jacqueline Anne Mervine for terms to expire December 31, 2002. Motion carried.

Planning Commission

Commissioner Jarboe moved, seconded by Commissioner Brugman, to appoint William J. Donaldson, III CDR/UNS/RET, for a term to expire December 31, 2002. Motion carried three to two with Commissioners Thompson and Chesser voting against.

Commissioner Chesser voted against the motion because he believed that there is a good balance currently on the Commission. Commissioner Thompson voted against the motion stating she believed it was critical to have experience on the Planning Commission and that most of the current members have been appointed within the last two years.

Commissioner Brugman moved, seconded by Commissioner Eagan, to appoint John Taylor to the Planning Commission for a term to expire December 31, 2002. Motion carried three to two with Commissioners Thompson and Chesser voting against.

Commissioner Eagan moved, seconded by Commissioner Chesser, to reappoint Frank Taylor to the Planning Commission for a term to expire December 31, 2002. Motion carried four to one with Commissioner Jarboe voting against stating he would have preferred another individual.

Nursing Center Board

Commissioner Eagan moved, seconded by Commissioner Thompson, to appoint J. Michael Wheatley, Ph.D. for a term to expire December 31, 2000. Motion carried 3-0-2 with Commissioners Brugman and Jarboe abstaining. (Commissioner Brugman abstained because his grandmother is a resident of the Center; Commissioner Jarboe abstained because his father is a resident.)

b. Letters of Appreciation

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

6. Fiscal Year 1999 Budget Review Schedule

Also Present: Steve Welkos, Director of Finance

The Commissioners reviewed the referenced budget schedule and gave their concurrence. (Commissioner Eagan noted that she will be out of town February 18 - 27 because her company is opening a new office out of state.)

COUNTY COMMISSIONERS

Response to Oran Wilkerson

Commissioner Jarboe referred to correspondence that the Commissioners received at home from Oran Wilkerson and requested staff to research his issues and draft a response.

Joyners Correspondence

Commissioner Jarboe indicated that the Joyners have sent another letter and requested the Public Information Officer to draft a response. Commissioner Eagan noted that the Commissioners had previously responded to the Joyners and suggested that Ms. Pedersen review these letters prior to drafting another response.

Co-location of Planning and Zoning and Health Department

Commissioner Thompson inquired into the status of the proposed co-location of the Department of Planning and the Health Department. County Administrator Kachmar indicated that some of the space at the Health Department has now been occupied; however, staff is currently looking into an addition to the Health Department in order to accommodate the co-location. Commissioner Eagan referred to the building recently acquired by MetComm at the Industrial Park and suggested that staff look into the possibility of using a portion of that facility.

**PROPOSED UPGRADE PARK GLEN COURT
HATTON'S REST SUBDIVISION
ORDINANCE NO. 98-06**

Present: George Erichsen, Director, Department of Public Works

As a follow up to the January 6, 1998 public hearing, the Commissioners commenced discussion regarding the request for the upgrade of a private road to a public road.

Commissioner Brugman noted for the record that although he was not present for the hearing, he has reviewed the tapes, familiarized himself with the matter, and would be participating in the decision.

Commissioner Thompson questioned who would pay for the upgrade to which Mr. Erichsen responded that the upgrade would be the developer's responsibility.

After discussion Commissioner Eagan moved, seconded by Commissioner Thompson, to grant the request to open a new public road, close the existing private road in the Hatton's Rest Subdivision (also known as Park Hall Glen Subdivision), as requested. Motion carried three to two with Commissioners Jarboe and Brugman voting against.

Commissioner Eagan moved, seconded by Commissioner Chesser, to sign Ordinance No. 98-06 approving that the 30-foot private driveway in the Hatton's Rest Subdivision for a distance of approximately 860 feet shall be closed as a private road, but re-opened, upgraded, and realigned as a public county road to be known as Park Glen Court. Motion carried three to two with Commissioners Jarboe and Brugman voting against.

FISCAL YEAR 1997 DRAFT AUDIT REPORT

Present: Richard Chamberlain, Reznick, Fedder, and Silverman
Dan Kenney, "
Steve Welkos, Director of Finance

Representatives of Reznick, Fedder, and Silverman appeared before the Commissioners to present the draft Independent Auditor's Report for Fiscal Year 1997. The report included Financial Statements; Schedules of Revenue Sources and Expenditures; Items to be Communicated with Auditor's Responses; the Auditor's Report on Compliance and on Internal Control Over Financial Reporting; General Fund Balance Status (June 30, 1996 compared to June 30, 1997 (Maximum Available for FY '99 Budget - \$5,909,951).

Copies of the report will be available when the final Auditor's Report is submitted to the County.

EXECUTIVE SESSION

Commissioner Eagan moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss a matter of bids (computer system bids) as provided for in Article 24, Section 4-210(a)10. Motion carried.

Computer Bids

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
Steve Welkos, Director of Finance
Roy Hicks, Deputy Director of Finance
Roy Eisenstadt, Reznick, Fedder, and Silverman
Sze Kei Lee, "
Joseph O'Dell, MIS Technician
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)10

Time Held: 3:20 p.m. - 4:00 p.m.

Action Taken: Staff discussed bids for the county's computer system and gave direction to staff..

FOLLOW UP TO EXECUTIVE SESSIONS

Computer System Bids

Commissioner Eagan moved, seconded by Commissioner Jarboe, to direct staff to proceed as discussed in Executive Session. Motion carried.

DEPARTMENT OF PLANNING AND ZONING GROWTH ALLOCATIONS

All Commissioners were present. DPZ staff present were Jon Grimm, Director; Christine Holmberg, Environmental Planner; and Peggy Childs, Recording Secretary. Mary Owens, of the Critical Area Commission staff, was also in attendance.

ISUB #96-0962 - STALLINGS PROPERTY, Lot 1

Requesting 1.5 acres of Growth Allocation under the Single-Lot Category. The property contains 28 total acres, is zoned RPD (RCA Overlay), and is located on the northeast side of Jones Wharf Road, off of Old Wharf Road, approximately 2 miles east from Route 235; Tax Map 20, Block 5, Parcel 238.

Owner/Applicant: Jeffrey Stallings

Legal Ad published in The Enterprise on 12/31/98 & 1/7/98

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

#S-1 1/13/98 Staff Report

This property was posted by staff as required. It is located on the Patuxent River and is almost entirely within the Critical Area. The proposed lot will be located at the end of Old Wharf Road. This proposal was originally submitted by the applicant and reviewed by the TEC in 1996; because of the magnitude of the agencies' comments, it was withdrawn. The lot was relocated to this proposed site and the application resubmitted in 1997. The Critical Area Commission states that previous issues appear to be addressed and that the property is not a FIDS habitat. The Planning Commission held a public hearing on November 10, 1997 and, on December 8, 1997, voted to recommend denial of the application based on insufficient information and an outdated environmental report. However, the applicant chose to bring the application forward to the County Commissioners.

There are four outstanding issues in this application: (1) A deed that runs with this and other properties in this vicinity requires a four-acre minimum lot size for any subdivision of land; (2) An existing easement which runs along the northern boundary of the property down to the Patuxent River provides lifetime access to several adjacent properties as the result of a court case, and, if approved, the proposed lot must be located out of that easement; (3) A road maintenance agreement will be required; and (4) Technical items must be addressed prior to recordation of a subdivision plat.

Neither the applicant nor a designee was present; the Certified Receipts were dropped off today at the DPZ office. Commissioner Thompson continued on to the public comment portion of the hearing, but stated if the applicant arrived he would be allowed to speak.

Adjoining property owners cited a litany of "illegal" actions by the applicant regarding this property. Ms. Judy Roa submitted a petition (#Opponents' #O-1) signed by 31 neighboring property owners, asking the Commissioners to reject the application. The petition also cites specific infractions, including: (1) the existing house was built over a blue-line stream, which Mr. Stallings has repeatedly tried to stem and divert; and (2) the placing of rip-rap around the lagoon and wetland marsh to allow further development.

Other contiguous or adjacent property owners who spoke were Robert Davis, Hubert and Jesse Leighton, Richard Williams, and Melvin Selby. All charged that Mr. Stallings has raped

the land and harassed the neighbors, doing everything possible to prevent them from using their legal access to the River, from digging a culvert and blocking the access to locking them out with a chain and padlock to threatening one of their daughters with a gun in his hand. The Critical Area property has been clear-cut and the trees and debris thrown into a huge pit, over which the proposed house is to be constructed.

Robert Davis provided a colored tax map showing all the properties as well as Jones Wharf Road and Old Wharf Lane (#O-2). Mr. Davis said Old Wharf Lane is a private road owned by himself and the other property owners along it, and they will not allow access over the road to develop the Stallings property. If necessary, Mr. Davis said they will pursue legal action.

Mr. Selby stated the Stallings site plan includes the 20 ft. access easement and a portion of the new road that was put in crosses a portion of his property; his permission was not asked and it was not given. In addition, Mr. Selby said the chain across the easement is in front of *his* property, not the Stallings' property, and blocks his access and part of his property.

This concluded public comment. Commissioner Thompson closed the public hearing, leaving the record open for the 10-day written comment period.

ISUB #96-2384 - WRIGHTSON FARM, Lots 1-2 & Farmstead Lot 3

Requesting three acres of Growth Allocation for two 1.5-acre lots, with the remaining 34.47 acres preserved as Farmstead Lot 3. The property contains 37.47 total acres, is zoned RPD (partial RCA Overlay), and is located on the north side of Fresh Pond Neck Road, approximately 3 miles off of Route 235 in Ridge; Tax Map 71, Block 21, Parcel 97.

Owner/Present: Allison Tucker

Also Present: Herb Redmond, of DH Steffens Co., Agent

Legal Ad published in The Enterprise on 12/31/97 & 1/7/98

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

#S-1 - 1/13/98 Staff Report

This property was posted by staff as required. Both DPZ staff and the Planning Commission recommend approval.

Mr. Redmond identified the property, which contains 36.42 acres within the Critical Area and 1.05 outside of the Critical Area and is located off of Fresh Pond Neck Road in Ridge. The two lots proposed are located in the Critical Area, along the south prong of St. Jerome's Creek. The property is farmland except for less than nine acres of woodlands and a 20-30 ft. wide drainage ditch in the field, which runs from Fresh Pond Neck Road and crosses Gray Goose Lane. Except for these areas and the two proposed lots, the property will remain in agricultural use. An existing two-story frame dwelling is located on Lot 3, the remainder of the property which will be retained in farmland.

The two lots will be served by mound sewage disposal systems and by the existing gravel road, except in front of the proposed lots and down to the water, where a pier is proposed for the use of the two lots and the existing home. A 30-foot private lane will provide access to the lots and the pier but only four trees will be removed to construct the private lane. There does not appear to be a great deal of erosion along the creek itself; the banks are 10 ft. in height in some places, with good vegetation. Mr. Redmond said he has suggested to the owner that a 300 ft. buffer be maintained in grass. Best management practices will be employed to handle runoff, which will probably be decreased from what exists today. Ditches will be maintained along the road and runoff will be diverted from the creek and dispersed over the land.

The hearing was opened to public comment.

Christiana Marks, who owns property on Gray Goose Lane, was concerned about the preservation of trees, particularly the mature trees on the northern edge of the property and the younger trees which go down to the water. Mr. Redmond assured her that there were no plans to disturb either those trees or the ones along the fence line farther down the property. Ms. Marks

asked if the applicant would consider planting trees to fill in the gap along the fence line? Mr. Redmond replied that they can only plant trees on the Tucker property and Commissioner Eagan suggested perhaps Mr. Donahue, the next property owner, could help plant the trees. Mr. Redmond advised if Ms. Marks has any further questions she is welcome to contact his office.

The public hearing was closed at 5:08 p.m. The record will remain open for the customary 10-day written comment period.

Proposed Zoning Ordinance Amendment (Section 38.2.18.C(1)(A))

Proposal to delete the 6-acre minimum lot requirement from the Single-lot category for Growth Allocation approval.

This proposed text amendment came about as a result of the Mike Lacey Growth Allocation application approved in 1996. The tract of land owned by Mr. Lacey was not a parcel of record and did not contain the 20 acres required in the RCA. Because the parent tract owner would not provide the additional acreage, Mr. Lacey's only recourse for a buildable lot was to apply for growth allocation to up-zone the property to LDA. The 6-acre requirement is indigenous to St. Mary's County and the Critical Area Commission agrees with its removal. The County Commissioners approved the Lacey application subject to the 6-acre provision being removed.

Commissioner Thompson opened the hearing to public comment. There were no comments and the public hearing was closed at 5:13 p.m. The record will remain open for written comment for 10 days.

Decisions on the growth allocation applications will be scheduled by the Commissioners following the open comment period.

VISIT FROM MAYOR OF ST. MARY'S, WEST VIRGINIA

The Commissioners received a visit from Louis F. Flade, Mayor of St. Mary's, West Virginia, who presented the Board with a crystal engraved bell. The Commissioners in turn presented Mr. Flade with a collection of souvenirs from St. Mary's County.

ANIMAL SHELTER PROPOSAL

As a follow up to the presentation at the January 6, 1998 Public Forum, the Commissioners discussed the Animal Welfare League's proposal for an animal shelter in St. Mary's County. County Administrator Kachmar indicated there were two organizations that would be eligible 501(c) entities for a shelter, the Animal Welfare League and the Humane Society. He indicated that the two groups could be contacted regarding the operation of the shelter either cooperatively or separately. Commissioner Thompson suggested that the County Administrator develop an agreement premised on the idea that the County would lease land for the shelter (to the Animal Welfare League or Humane Society or both), and that the agreement would include the County's requirements as a local government (in terms of the animal control). Discussion included the time frame for the operation of the shelter to begin; use of currently appropriate county funds (that the operation not exceed the county's appropriation); notification to Calvert and Charles of the intention to withdraw from the Tri-County Animal Shelter if the County proceeds with the project.

County Administrator Kachmar indicated he would draft the Agreement and submit it to the Board for review and consideration.

ZONING PROCESS

Present: Jon Grimm, Director, Planning and Zoning

As a follow up to last week's discussion Mr. Grimm appeared before the Board to clarify issues regarding the Comprehensive Plan adoption and subsequent amendments to the Zoning

Ordinance and to seek direction from the Board. He stated that the Planning Commission's final draft of the Comprehensive Plan has been completed and will have to the Commissioners by tomorrow (January 21), and the draft includes modifications in response to the joint work sessions and citizens' comments (including the 74 letters from citizens with individual rezoning requests). The draft will include a summary of comments with the Planning Commission's response as well as specific changes made to the document, and guidelines for the draft zoning maps.

In response to inquiries from the Commissioners regarding the 74 individual requests, Mr. Grimm stated that the Planning reviewed them as part of the comprehensive plan comments, took initial positions with respect to consistency with the recommended plan. Subsequent action to amend the Zoning Ordinance, which will require a public hearing, will be dependent on the County Commissioners' action on the plan itself. The Planning Commission wanted to act quickly to implement the plan with the Commissioners' approval and so that if the Commissioners have any objections, these could be addressed.

In conclusion January 29, 1998 at 11 a.m. was tentatively set to meet with the Planning Commission to review the draft plan.

EMERGENCY SERVICES DISCUSSION

Present: Steve Welkos, Director of Finance
Roy Hicks, Deputy Director of Finance
Douglas Durkin, County Attorney
Representatives from Fire/Rescue/ALS Companies

Because of the need for clarification, the Commissioners held discussion regarding the Fiscal Year 1999 Budget Instructions, audit requirements, and the proposed legislation and ordinance relative to fire departments and rescue squads.

Mr. Welkos reviewed the budget instructions (as a follow up to the Master Plan Study for fire/rescue services, improvement of the county's financial accountability, the county's interest in assuring that legal and fiduciary responsibilities are met) including prior year requirements and new requirements.

Mr. Hicks gave an overview of the resources committed to volunteer fire/rescue companies, the county's legal and fiduciary responsibilities relative to fire tax revenue, state fire, rescue, and ambulance fund allocations, capital revolving financial loan fund; Recommendations, Solutions and Conclusions.

Mr. Durkin reviewed applicable laws relative to volunteer fire and rescue companies (Maryland Annotated Code and St. Mary's County Code).

The Commissioners opened the meeting for comments from the audience. Discussion items included: development and concerns of the proposed legislation and ordinance (that the ESC would control what funds each department would get, that ESC has requested a four-month delay), concerns regarding the audit requirements (costs to the departments); confusion over the budget instructions (complexity, delay in receiving the information and therefore difficulty in compliance, performance indicators); accountability of 508 funds provided to the departments and current practices by the departments in reporting the use of the funds; the fact that they are volunteers, and the need for better communication.

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After discussion the Commissioners indicated they did not want to exert any more control over the fire/rescue departments other than what was required by law and that the Board would discuss the department's concerns and make a determination how to alleviate any problems (including possibly revising budget instructions to be more reflective of the functions of the departments). In addition the Commissioners agreed to get an interpretation on the definition of audit and whether what the departments are currently doing in reporting on the use of 508 funds is acceptable.

ADJOURNMENT

The meeting adjourned at 10:15 p.m.

**Minutes Approved by Board of
County Commissioners on 11/27/98**

Judith A. Spalding

**Judith A. Spalding
Recording Secretary**