

ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
August 11, 1998

Present: Commissioner President Barbara R. Thompson
Commissioner Lawrence D. Jarboe, Vice President
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Mortimer L. Smedley, Assistant County Administrator
Judith A. Spalding, Recorder

(Commissioner D. Christian Brugman was not present.)

CALL TO ORDER

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

APPROVAL OF MINUTES

Commissioner Eagan moved, seconded by Commissioner Chesser, to approve the minutes of the Commissioners' meeting of Tuesday, August 4, 1998, as presented and the Planning and Zoning portion (W/S Amendment for Loveville/Banneker) of the July 28, 1998 minutes as presented. Motion carried.

APPROVAL OF CHECK REGISTER

Commissioner Eagan moved, seconded by Commissioner Jarboe, to authorize Commissioner Thompson to sign the check register, as presented. Motion carried.

ADDITIONS/DELETIONS TO AGENDA

Commissioner Eagan moved, seconded by Commissioner Jarboe, to accept the agenda as amended (to add a discussion with the Director of Human Resources regarding clarification of areas of the Personnel Manual). Motion carried.

CONSENT AGENDA

Correspondence to:

1. Walter D. Cooper, President of Cedar Lane Apartments Board of Directors, concerning the County Commissioners' recommendation for the use of the Colton Endowment funds.
2. Various companies extending appreciation for donations in support of Fire/Rescue Appreciation Day.
3. Maryland Office of Planning, State Clearinghouse Unit, forwarding comments concerning Maryland Department of Transportation Application MD980708-0709—funding for capitol equipment for non-profit agencies that transport elderly persons and/or persons with disabilities.
4. MD Dept. of Housing & Community Development supporting the efforts of Hatara, Inc. in utilizing state Neighborhood Revitalization funds to improve Ye Olde Restaurant in Leonardtown.
5. Emily Jackson relative to concerns about the MCI proposal.
6. U.S. Department of Housing & Urban Development relative to the automation of the department by the year 2000, providing county contact information.
7. Various individuals relative to the Wicomico Shores Special Taxing District, Phase II.
 - a. George W. and Maree F. Loutsch
 - b. William and Juanita Collison

8. Richard Baylor regarding inquiry into county property on Flat Iron Road.

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

COUNTY ADMINISTRATOR ITEMS

Present: Mortimer Smedley, Assistant County Administrator

1. Department of Public Works Items

- a) Public Works Agreement Addendum for Stratton Subdivision, Section 2, extended the completion date to September 1, 1998; backed by a Letter of Credit in the amount of \$71,300 provided by Northern Central Bank.

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

- b) Public Works Agreement Addendum for Cedar Cove Subdivision, Section 5, extending the completion date to August 1, 1999; backed by a Letter of Credit in the amount of \$236,000 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.

- c) Public Works Agreement for Victoria's Grant Subdivision, Phase III; backed by a Letter of Credit in the amount of \$426,200 provided by Maryland Bank & Trust Company.

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

- d) Railroad Right-of-Way Easement Agreement for Lexington Park Hotel Partners (To provide ingress/egress for the Hampton Inn to be located in the vicinity of Pegg Road, Eighth Election District.)

Also Present: George Erichsen, Director, DPW
Tom Waring, applicant

Mr. Erichsen explained that Mr. Waring is proposing an 11,590 square foot motel and a 6,500 square foot restaurant. He currently has two points of accesses, one off of Route 235 (shared entrance) and the other is the location of the temporary access at the location of Pegg Road. He pointed out that the FDR Boulevard corridor extends in that direction and the applicant has been requested to use the temporary entrance and align it to Pegg Road. One of the alternative access points is owned by SMECO and is in conflict with SMECO's expansion plans.

During his presentation Mr. Erichsen referred to the provision in the Easement Agreement that the owner would be responsible for any costs associated with the relocation of the facilities should the County and/or SMECO require use of the railroad right-of-way in the future. He stated that Mr. Waring had agreed to this provision.

Commissioner Jarboe referred to the request by the Maryland Transit Authority for the County to hold off approval of easements across the railroad right-of-way until after the first of the year when MTA's study should be completed. There will be a meeting with MTA and other officials regarding this issue later in the year.

Commissioner Chesser moved to authorize Commissioner Thompson to sign the Easement Agreement as presented. Motion failed for lack of a second.

Discussion ensued relative to granting a temporary easement until January 1, after which time the issue could be revisited. Mr. Waring stated that because of the expense of constructing

a temporary easement, with the possibility of having to abandon it, he would use the Route 235 entrance.

Commissioner Eagan moved, seconded by Commissioner Chessser, to grant a temporary construction easement until the outcome of the meeting with MTA regarding the State's intentions relative to the granting of easements. Motion failed 0 to 4.

During discussion of the motion, Mr. Waring advised that because of the amount of construction on Route 235, the Planning Commission requested that he get a temporary entrance.

After further discussion Commissioner Chessser moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the Easement Agreement as presented. Motion carried three to one with Commissioner Jarboe voting against.

In conclusion the Commissioners requested staff to prepare correspondence to the State indicating the County's action regarding this particular easement and pointing out that it was not the County's intent to disregard the State's request.

2. Correspondence
(To John Griffin, Secretary Maryland Department of Natural Resources expressing concerns about the continuing erosion taking place on St. Clement's Island.)

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

3. Walden/Sierra, Inc. Grant Documents
 - a. Grant Application to ADAA/DHMH
Employment in Recovery - (\$62,598 - state funding)

Commissioner Chessser moved, seconded by Commissioner Jarboe, to authorize Commissioner Thompson to sign the Grant Application as presented. Motion carried.

- b. Grant Modification to DHR - Office of Transitional Services
Rape Crisis - Prevention and Education - (\$19,050 - state funding)

Commissioner Chessser moved, seconded by Commissioner Eagan, to authorize Commissioner Thompson to sign the Grant Modification as presented. Motion carried.

LIBRARY BOARD OF TRUSTEES - ANNUAL REPORT

Present: Fred Powledge, Chair
Janice Briscoe, Member
Mary Ann Chasen, "
Barbara Conrath, "
Joan Marsh, "
Jacqueline Mervine, "
Mary Wood, Director

The referenced representatives of the Library Board appeared before the Commissioners to present the Boards 1997 Annual Report. Mr. Powledge reviewed the Report and expressed appreciation to those who donated funds and in-kind contributions and to the County for the funding in the FY '99 budget.

During review of the report Mr. Powledge reviewed the following: publication of an activities/financial report to be placed in each library; excerpts from comments boxes located at each library; biggest needs of the library are space and collections; status of library site selection (should be completed by November); the need for funds for collections (books, audio/video tapes, and computer driven data bases).

Areas of discussion included providing means for teens from the teen centers to visit the libraries; co-locating libraries with schools or community centers; restricting access by children to certain materials.

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

**REAL ESTATE PROJECTS STATUS REPORT
(R&P BOAT RAMPS AND WHARVES)**

Present: Douglas Durkin, County Attorney
Linda Opdyke, Legal Assistant
Phil Rollins, Director, Recreation and Parks
Bill Ball, Parks Maintenance Supervisor

As a follow up to a previous discussion, the referenced staff reviewed the status of various boat ramps and wharves in the County:

Abell's Wharf

Boat ramp is located on an adjacent property owner's property (0.1 acres parcel) and boat owners are parking on adjacent land. There is also a dispute as to ownership of the 0.623 acre parcel that the county had been negotiating to acquire. The County Attorney recommends either acquisition via purchase, condemnation of an adequate amount of land, or abandonment of the facility. If the Commissioners are interested in making this a viable site, all interested parties should be approached (once all interested parties have been identified), and the amount of land needed should be decided and begin negotiations. If that fails, the matter can be taken to Circuit Court.

Bushwood Wharf

A neighbor property owner claims the County built the causeway and boat ramp at least partially on his property, and he has proposed that the wharf be used as an historical site with limited or eliminated public access. There is also a question of clear title. Mr. Durkin stated it was his opinion that the matter cannot be resolved through negotiations, and that the Commissioners could take it to Court and get a quiet title

Chaptico Wharf

The situation was resolved with a boundary line agreement and plat, which have been recorded in the land records.

Forest Landing

There is no deed or other documentation showing the County owns this property. Extensive research and quiet title litigation may be required. A determination will have to be made as to who might claim an interest and try to get a deed or take it to Circuit Court.

Leonardtwn Wharf

The County has only an easement for a 700 square foot parcel for the incline portion of the boat ramp for public use, and the County does not have an easement for access to the incline or for parking. The landowner is planning to sell the property and is not interested in negotiating with the County, but the access to the ramp would remain open temporarily. County Attorney Durkin recommended that the County buy land to provide access to the wharf or abandon it.

Included in the report was a listing of all public landings, boat ramps, and water access and the Commissioners pointed out the lack of actual access to the water. Mr. Rollins indicated that this issue is being addressed in the Recreation and Parks Master Plan.

Commissioner Eagan referred to the County's acquisition of Myrtle Point, the importance of having access to the water, the need for boat ramps, and inquired why the R&P Board recommended against a boat ramp. Mr. Rollins stated that the R&P Board determined that Myrtle Point was not a suitable site for a public boat ramp, that it would be difficult and expensive because of high cliffs, shallow water, tidal ponds and critical areas.

In conclusion the Commissioners scheduled August 25 at 9 a.m. to visit the referenced sites prior to making a decision on what actions to take on each one.

**DEPARTMENT OF PLANNING AND ZONING
COMPREHENSIVE WATER AND SEWER AMENDMENT
(LOVEVILLE/BANNEKER)**

All Commissioners were present except Commissioner Brugman. DPZ staff present were Jon Grimm, Director; and Peggy Childs, Recording Secretary. Representatives of St. Mary's County Public Schools, Environmental Health, and MetComm were present, as were Mr. Gass and area residents.

DISCUSSION/DECISION

CWSP #98—0730 – BANNEKER & LOVEVILLE SCHOOLS

Requesting service category change from NPS (No Planned Service) to RS(e) (Rural Service, Environmental Hazard) for certain acres described As Tax Map 25, Block 20, Parcel 85.

This public hearing was held on July 28, 1998, at which time testimony and public comments were heard. Letters received during the 10-day open record period were provided to the Commissioners from the following: Doug Ritchie, Concerned Citizens of Leonardtown and Loveville, Glenn Gass, P.E., and Larry Petty, Director of the Metropolitan Commission.

The proposal is for a denied access sewer line to serve only the two schools. Testimony at the public hearing was that an alternative septic system had been investigated on the adjoining Long property, but that the purchase of the 11 acres and the continued maintenance of the septic fields would far outweigh any initial cost reduction. MetComm calculates the proposed sewer line at a cost of \$444,000. The cost of the septic disposal system on the Long property would be \$450,000 – without purchase of the property and maintenance costs. Assuming a cost of \$10,000 per acre, the purchase price for the 11 acres would be \$110,000. The proposed line has been engineered to handle failing systems certified by the Health Department, should any failures occur.

The Town of Leonardtown is on record opposing the allowance of individual hookups, citing the possible strip development which could ensue, as well as limited capacity available at the Leonardtown Treatment Plant. In addition, staff states that the boundary line of the Leonardtown Development District will be moved closer to Leonardtown in the 1997 Comprehensive Plan Update to eliminate the McIntosh Run sensitive areas.

Regarding MetComm's comment that the State will not fund off-site facilities, Brad Clements, of SMC Co Public Schools, stated that even funding for on-site facilities is limited to the perimeter of the building. He said recently the State has begun to pay for off-site facilities but that has not come into play yet and that, however we resolve the sewer issue, it will be paid for by local funds.

Commission Jarboe noted, if the school will be expanding, playing fields will be needed and the septic drain fields could be used for play fields for the school. Brian Still, of SMC Co Public Schools, replied that the school has property on-site for playing fields, but it does not perc. In addition, their engineering study showed that the Long property behind the school was wetlands and the only section left for the septic fields does not adjoin the school.

Commissioner Chesser moved for approval of the sewer category change, with the stipulation that the proposed sewer line serve only Banneker and Loveville Schools. Commissioner Thompson seconded the motion.

During discussion Commissioner Chesser stated he thinks the primary objective is to sewer the school, and something has to be done very soon. He said he doesn't like the limited access but will have to live with it. In addition, Mr. Chesser said he thinks the cost of the land for the drain fields would cost much more than \$10,000 per acre.

Commissioner Thompson stated she realizes that the Longs have made a request, but the reality is that they have percs and can develop their property. She noted that properties along the line with failing systems will be able to connect and said she doesn't know how we would grant

a category change to other properties without considering all the properties along the sewer line. In addition, the development district boundary will be recommended for change in the Comp Plan Update and the Plan does not provide for sewer in the RPD except for environmental problems.

Commissioner Eagan said she would vote for the motion because the schools need this, but she didn't second the motion because she thinks the Long property should be included. She said she thinks it's obvious that the Board of Education did not make a wholehearted effort to work with the Long family and that the Longs did not have the opportunity to present their case to the Planning Commission. Ms. Eagan said she is not in favor of septic systems, but she is sorry that more information could not have been given to the citizens in the area; maybe at some point that will change, particularly since there is capacity for failing systems to connect, and she wishes the Board of Education had worked harder with the families there so that this situation hadn't occurred.

Commissioner Jarboe stated he sees some real "Smart Growth" issues in this situation; he thinks the line will have an impact on the Loveville and Mennonite communities and that people will want to connect to the sewer down the line. He said he doesn't think the Board of Education did their homework in reviewing the alternatives on this. We've heard so many times that we need more playing fields and a septic system would have made sense, because it would have fertilized the playing fields and they would have lasted until we were ready to build a real sewer line that everybody could connect to.

The motion passed by a vote of 3-1. Commissioners Thompson, Chessser and Eagan voted in favor; Commissioner Jarboe voted against.

COUNTY COMMISSIONERS' TIME

Route 235 Reconstruction

Commissioner Eagan inquired whether the situation with the mail boxes along Route 235 had been resolved (The boxes have been relocated for easier access).

Health Department/Food Inspection of Community Dinners

Commissioner Eagan referred to a letter from the County's Health Officer, Dr. Israel, in which he indicated that Health Department staff would be doing food safety inspections at the community dinners. She stated that there are dinners almost every weekend starting in the fall and questioned whether the Health Department had adequate funds in the budget for this expenditure.

Personnel Manual

Also present: Melvin "Mac" McClintock, Director, Department of Human Resources

Commissioner Chessser inquired if a person on military leave (reserve duty) received his/her regular pay in addition to military pay. Mr. McClintock responded that an employee is allowed 120 hours per year military leave; beyond that time he/she should use annual or compensatory time.

WICOMICO SHORES SUBDIVISION – PHASE III

Present: George Erichsen, Director, Department of Public Works
Douglas Durkin, County Attorney
Larry Petty, Director, Metropolitan Commission

As a follow up to last week's discussion, staff appeared before the Board to discuss whether the Board wanted to go forward with a special taxing district for Phase III. County Attorney Durkin explained the history and the establishment of special taxing districts for Phase I and II. He then explained the need for a policy decision by the Board whether the Board was willing to extend the taxing district to vacant undeveloped land or to limit districts to subdivisions with houses and roads. Mr. Durkin reminded the Board of the advice given by the County Administrator to be cautious about proceeding with Phase III because it is different and risky because it is a subdivision with vacant undeveloped lots.

Areas of discussion included the impact on the County's bond rating should this project go forward; equity issues (that if Phase II should go forward so should Phase III); status of water/sewer facilities for each phase; that preparations had been made two years ago for a public informational meeting for Phases II and III; survey of property owners by MetComm in February of 1996 indicated that 78.6% of the property owners were in favor of a taxing district (at \$120 per month); whether there were unbuildable lots (and the impact on the taxing district); the cost to the taxpayers per household; risks if the taxing district "went under;" a report expected from the Department of Planning and Zoning regarding critical areas; the impact on the golf course and the fact that the golf course is part of the special taxing district (the tax is paid through the Enterprise Fund); irrigation needs of the golf course; and what was needed to proceed with a special taxing district for Phase III.

Commissioner Eagan inquired as to what was needed to proceed with the roads and water/sewer for the purple section (Phase III). Commissioner Thompson indicated that the County could go forward with looking at Phase III, but stated that the Commissioners need to know what the risks are.

In conclusion the Commissioners agreed that once the information was received from DPZ about the critical areas, slopes, etc., staff would return to discuss the steps needed to proceed further with this project.

ADJOURNMENT

The meeting adjourned at 6:00 p.m.

Minutes approved by the
Board of County Commissioners on 8/18/98

Judith A. Spalding
Judith A. Spalding, Recorder