

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
November 24, 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
Mortimer L. Smedley, Assistant County Administrator
Mary M. Langley, Recording Secretary

CALL TO ORDER

The meeting was called to order at 1:10 p.m.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve the minutes of the Commissioners' meeting of Tuesday, November 17, 1998 as amended. Motion carried. (Commissioner Brugman was not in the room at this time.)

APPROVAL OF BILLS

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

ADDITIONS/DELETIONS TO THE AGENDA

Commissioner Chesser moved, seconded by Commissioner Eagan, to approve the agenda as amended (to add consideration of a resolution to amend the procurement manual and to discuss request of Commissioners elect for staff support prior to their taking office). Motion carried.

CONSENT AGENDA

The Consent Agenda included the following:

1. Robert and Dorothy Joyner acknowledging receipt of 10/1998 correspondence.
2. Patricia C. Puffenbarger responding to concerns relative to use of the old railroad right-of-way.
3. (e-mail) Diane Thompson regarding emergency communications system.
4. (e-mail) Greg Laxton regarding emergency communications system.
5. Chair, Wetlands Restoration Steering Committee regarding wetlands restoration competition.
6. Mike Deasy acknowledging receipt of letter.
7. President, Maryland Association of Counties regarding pilot Maryland Retirement Plan offering.
8. Cynthia Brown, Chair, Commission for Disabled expressing appreciation for presentation of Annual Report

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

- ❖ Draft Agenda – December 1, 1998 and December 7, 1998
- ❖ Calendar of Events

1. **Budget Amendment No. 99-12**
County Administrator -- \$2,640,348 (Reserve)
MCI contract under 911 communications

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 99-12. Motion carried.

2. **Grant Documents – Office on Aging**
Maryland Department of Aging, FY99, Group Senior Assisted Housing Program
\$2,000 – Grant Acceptance Document from State

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

- 3 Department of Public Works Documents

- a. Public Works Agreement for Rustic Hills Subdivision, Section 4, located in the Fifth Election District, backed by a Performance Bond in the amount of \$307,400 provided by the Reliance Insurance Company.

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

- b. Temporary Construction Easement from Ronald & June Byrd for the purpose of reconstructing Philip Lane and Helen Lane located in the Mulberry South Taxing District.

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

4. Resolution No. 98-47 and Copyright Waiver Form -- Acceptance of Copyrighted Plans, Requirement for Waiver.
(Establishes a policy to accept copyrighted materials only with a signed waiver.)

Commissioner Chesser moved, seconded by Commissioner Jarboe, to approve and sign Resolution 98-47 as presented. Motion carried.

5. Amendment to St. Mary's County Zoning Ordinance – Ordinance No. Z98-07
(Permits a Photographic Studio or Lab as a Permitted Use within the Industrial (I) zone. Follow up to Commissioners' meeting of November 10, 1998.)

During discussion Commissioners Brugman and Eagan commented on the quickness of this amendment change (2 weeks from request of citizen) compared to the amount of time it took for an amendment change requested by the Commissioners relative to signs and juvenile detention centers (2 years). Commissioner Jarboe recommended that the incoming Board of Commissioners take a close look at industrial zoning during their review of the zoning ordinance as it is very restrictive and prohibits St. Mary's from having industrial parks like Charles and Calvert counties.

Commissioner Brugman moved, seconded by Commissioner Eagan to approve and sign Zoning Ordinance No. Z98-07 as submitted. Motion carried.

RESOLUTION RELATIVE TO CHANGE IN PROCUREMENT MANUAL

Commissioner Thompson presented a draft resolution for the Board's consideration to amend Section 1-2.3 (Officials Not to Benefit) of the county's procurement manual to include appointed officials. She stated that this oversight was brought to their attention during the review of the MCI contract and that it should be amended to be consistent with the wording in the Ethic Ordinance.

Commissioner Chesser moved, seconded by Commissioner Eagan, to approve the resolution to amend the Procurement Manual to include appointed officials. During discussion, County Administrator Kachmar suggested that the amendment also include employees. **Commissioner Brugman moved, seconded by Commissioner Eagan, to amend the main motion to include employees of St. Mary's County. The main motion carried. The amended motion carried.** The resolution will be presented to the Commissioners in final form for their signature at the Board's next meeting.

COMMISSIONERS-ELECT TRANSITION TEAM

Commissioner Thompson stated that the Commissioners-elect have formed a citizens' transition team who will need to gather information from and consult with existing county staff and that the Commissioners-elect have requested support of the transition team during the Board's last two weeks in office.

Motion was made by Commissioner Brugman, seconded by Commissioner Chesser, that county staff cooperate with the transition team as long as the meetings are held in an open format. During discussion it was indicated that clerical staff assistance would be provided as long as it did not interfere with their daily duties. **Motion carried.**

Commissioner Thompson requested that the issue of whether the transition team would fall under the Open Meetings Act and whether members would have to file financial disclosure forms, and whether the Team would have to abide by the Ethics Ordinance after the Commissioners-elect take office be researched.

COUNTY COMMISSIONERS

Legislative Items

Commissioner Jarboe indicated that the state legislators will be receiving legislative items for consideration through December 5, 1998 and requested that any items the Commissioners would like to have presented be brought forward at the Board's next meeting. Commissioner Thompson stated that she is proposing a legislative item related to compensation for elected officials which would establish a committee to automatically review the issue every third year and make a recommendation directly to the delegation. Commissioner Jarboe requested that she provide copies of the proposal and let the Board vote on it at the next meeting.

Comprehensive Land Use Plan

Commissioner Eagan shared that she felt this Board of Commissioners would never see the Comprehensive Plan and asked what the status was. Commissioner Brugman stated that the Planning Commission is still reviewing the peer-review and has not voted on it yet.

PROCLAMATION – DRUNK AND DRUGGED DRIVING AWARENESS MONTH

Members of the Alliance for Alcohol/Drug Abuse Prevention and the Sheriff's Office received a proclamation declaring the month of December as Drunk and Drugged Driving Awareness Month.

**PUBLIC HEARING – DEPARTMENT OF PLANNING AND ZONING
ADOPTION OF NATIONAL STANDARD PLUMBING CODE**

(For the purpose of adopting the National Standard Plumbing Code/1993 Edition, with 1994 and 1995 supplements including state and local amendments, as the St. Mary's County Plumbing and Fuel Gas Code.)

Present: Douglas S. Durkin, County Attorney
Harry Knight, Code Coordinator, Department of Planning and Zoning
Thomas Russell, Director of Environmental Health, SMC Health Department

Mr. Durkin read the Notice of Public Hearing as published in the November 11 and 18, 1998 issues of *The Enterprise* and provided a historical perspective on the existing ordinances. He stated the ordinance under consideration for amending and consolidating the plumbing code and gas code into a single code was complete except for one omission (definition of the term "Plumbing Work"). He indicated that he requested the Attorney General's formal opinion concerning the county's authority to enact an ordinance requiring local licenses for plumbers, propane gas fitters and natural gas fitters, as directed by the Board of Commissioners. Mr. Durkin provided a copy of the Attorney General's opinion, dated November 23, 1998, which states that the county does not have this authority. This ruling will also affect other Maryland counties that issue licenses, and it removes local option. Unfortunately, while it removes the requirement for a separate St. Mary's County plumbers license, it also removes the county's ability to issue a gas fitters license, a dilemma which will put many local tradesmen out of business unless they work with someone who has a master plumbers license.

The Commissioners requested that a requirement for a valid Maryland plumbers license be included in the application requirements for a permit [Section 250-6(c)]. Also Section 250-5/Licensing will need to be removed as it violates the law.

The floor was opened for comment. John DeHahn stated that he has been a plumber for 31 years and held a gas fitters license for 18; the removal of the local license would affect his ability to provide for his family. Susan Dean stated that her research at the Department of Planning and Zoning showed that 39 gas fitters licenses have been issued in St. Mary's County, 15 of which have not been renewed, leaving 25 individuals affected. Norman Baker holds a WSSC gas fitters license and was representing gas fitters. He believes the only answer to this dilemma is a statewide license and requested the county's help with a legislative proposal. Mr. Baker noted that the state does have a propane gas fitters license which could possibly be amended to include natural gas. Tom Russell, as chair of the St. Mary's County Plumbing Board, offered his assistance in testifying before the legislature. There being no other comments, the public hearing was closed. The record will remain open for 10 days. The Board will meet on Monday, December 7, 1998 to render a decision.

**FISCAL YEAR 1998 FINANCIAL AUDIT REPORT
T. J. MURPHY, COUNTY AUDITOR**

Present: Tim Murphy, P.A.
Dana Frazier, P.A.
Steven E. Welkos, Director of Finance

Mr. Murphy and Mr. Frazier presented a summary of the results of the audit for the year ended June 30, 1998 which included the independent auditor's report and financial statements for St. Mary's County. The auditors stated that the county's overall financial condition is very healthy. They addressed the areas of concern noted in their management letter of October 5, 1998, which included fixed assets, compensated absences, the Treasurer's checking account and driveway entrance permit liability. Mr. Murphy noted that these items have been corrected.

Mr. Welkos provided a report on the General Fund Balance Status for the year ended June 30, 1998. The undesignated general fund balance as of fiscal year end is \$12,419,180. The growth in the fund balance is primarily attributable to actual revenues exceeding expenditures in FY 1998. Should the county follow past practices and set aside 5% (\$5.9 million), \$7.4 million could be utilized for additional spending in the current fiscal year or as a funding source for the FY2000 budget.

**PROGRAM OPEN SPACE GRANT APPLICATION
DEPARTMENT OF RECREATION AND PARKS**

(Follow up to direction of the Board of County Commissioners at their February 24, 1998 meeting for staff to work with the Town of Leonardtown to attempt to acquire this property.)

Present: Phil Rollins, Director
Robin Guyther, Town Administrator
Town Council Members

Mr. Rollins presented a Program Open Space Grant Application for \$14,365 on behalf of the Town of Leonardtown to acquire the 3.3 acre former State Highway Administration Property appraised at \$531,000. The property is located at the intersection of Maryland Routes 5 and 243 in Leonardtown. The town has proposed the site as a small community park with picnic tables, parking and canoe/kayak launching area.

Mr. Rollins explained that the funds needed to purchase this site will be transferred from a Wicomico Shores Golf Course land acquisition project previously approved. The remaining Project Open Space fund balance of \$85,657 will remain in the Golf Course project along with \$50,000 in golf enterprise funds which should be sufficient to purchase building lots encroaching on the golf course.

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

**MYRTLE POINT MASTER PLAN UPDATE
DEPARTMENT OF RECREATION AND PARKS**

Present: Phil Rollins, Director

Mr. Rollins provided a status report on the Myrtle Point Master Plan. He noted that the draft plan was adopted by the Recreation and Parks Board on April 23, 1998 and forwarded to the Planning Commission on July 23, 1998. The consultants, Rhodeside and Harwell, presented the draft plan at public hearing to the Planning Commission on September 14 and continued on September 28, 1998. The Planning Commission conducted a work session on November 2, 1998 at which they voted to recommend to the Board of County Commissioners that a consultant be asked to review the site and provide his professional opinion as to the best use of this property in the context of a useable park. The recommendation was formalized by resolution of the Planning Commission on November 23, 1998, a copy of which was then provided to the County Commissioners.

Commissioners Brugman, Eagan and Jarboe took exception to the term "useable" verses "active" park. Commissioner Brugman stated that the active-use plan developed by the consultant only uses 20% of the park and that the land was purchased to be used as an active park. Commissioner Thompson stated that the consultant was told specifically by this Board what to put into this park and was not given the opportunity to come back with a professional opinion which is what the Planning Commission wants to give a consultant the opportunity to do. With the exception of the removal of the boat ramp all the items were incorporated into the Master Plan. Commissioner Eagan stated that the consult did give his opinion on the boat ramp and was free to give his opinion on all the other items recommended.

Commissioner Brugman moved, seconded by Commissioner Jarboe, that this Board adopt the Myrtle Point Master Plan as presented on July 23, 1998. Motion carried 3 to 2 with Commissioners Thompson and Chesser voting against.

Commissioner Jarboe moved, seconded by Commissioner Brugman, that a second phase power boat ramp and public swimming area be included in the Master Plan. Motion failed 2 to 3 with Commissioners Thompson, Chesser and Eagan voting against.

Commissioner Jarboe moved, seconded by Commissioner Brugman, that the steel cable and barrier post, located on the gravel road, be taken down to provide handicapped and seniors access into the park for a river-side view. Motion carried 3 to 2 with Commissioners Thompson and Chesser voting against.

ORDINANCE NO. 98-48

CODE OF ETHICS – FINANCIAL DISCLOSURE REQUIREMENTS

(Discussion/Decision)

(Follow up to public hearing of November 10, 1998 relative to Financial Disclosure Requirements. Repeals and readopts the Code of St. Mary's County, Section 158-6 of the Ethics Ordinance to include those Boards and Commissions previously omitted to file a Financial Disclosure Statement.)

Present: John Baggett, Chair, St. Mary's County Ethics Commission

Mr. Baggett clarified that the submittal of the financial disclosure form is currently required within 30 days of membership appointment. The amended ordinance will require that the disclosure be submitted at the same time as the acceptance of appointment form. Commissioner Eagan stated that the Agricultural Land Preservation Advisory Board has requested exemption from the financial disclosure requirement, and that she would vote against unless they were removed. Commissioner Thompson noted that the Historic Preservation Commission would fall under the same category, as would others, and that you cannot remove some without removing others. Commissioner Jarboe indicated he would vote against the adoption of the amendment due to the current difficulty in securing people to serve on the county's committees. He felt a better time to consider an amendment would be after the consolidation of the boards, committees and commissions.

Commissioner Brugman moved, seconded by Commissioner Chesser, to approve and sign Ordinance No. 98-48. Motion carried 3 to 2 with Commissioners Eagan and Jarboe voting against.

**COURTHOUSE PROJECT UPDATE
OFFICE OF CAPITAL PROJECTS**

Present: James S. Stirling, Director
Richard J. Voorhaar, Sheriff

Mr. Stirling provided a project status report, reviewing the major milestones of the project, project timeline, proposal/cost projections (propriety), value engineering changes, cost comparisons and previous budget estimates. He indicated that the temporary courthouse/county office building (37,000 s.f.) should be completed on February 1, 1999 with the move-in date for the courts set for Presidents' Day weekend; the completion date for the courthouse renovation and addition is May 1, 2000, with the Board of Education's occupancy of the new county office building set for September 2000. The total projected cost for both buildings is \$16.4 million which includes construction management costs. Mr. Stirling advised that another master planning study will be done to validate the Board of Education's needs.

Mr. Stirling presented **Budget Amendment No. 99-13** for the Commissioners' consideration in the amount of \$1,999,604 needed to complete the courthouse renovation and addition project. He advised that the funds will be taken from the health department renovation and Lexington Park Library account; this should not impact the projects assuming the Commissioners approve the re-issuance of the funding in the FY2000 budget.

Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner President Thompson to sign Budget Amendment No. 99-13. Motion carried.

Sheriff Voorhaar spoke to the Commissioners concerning ten new deputies (sworn personnel) needed to satisfy security at the temporary courthouse facility. Due to the open layout of the building, tight security is needed. Mr. Stirling indicated that courthouse and sheriff staff have worked with his office to address security items needed in both buildings, and that the additional deputies will be needed at the downtown facility as well. Commissioner Eagan requested that the U. S. Marshall's Office be contacted to work with the sheriff on the security staffing issue.

The Sheriff also shared his concern over the separation of the communication center from the Sheriff's office and indicated that he has spoken with Mr. Stirling concerning an addition to the building to house his dispatch staff.

**ST. MARY'S COUNTY AIRPORT
PROPERTY DISPOSITION**

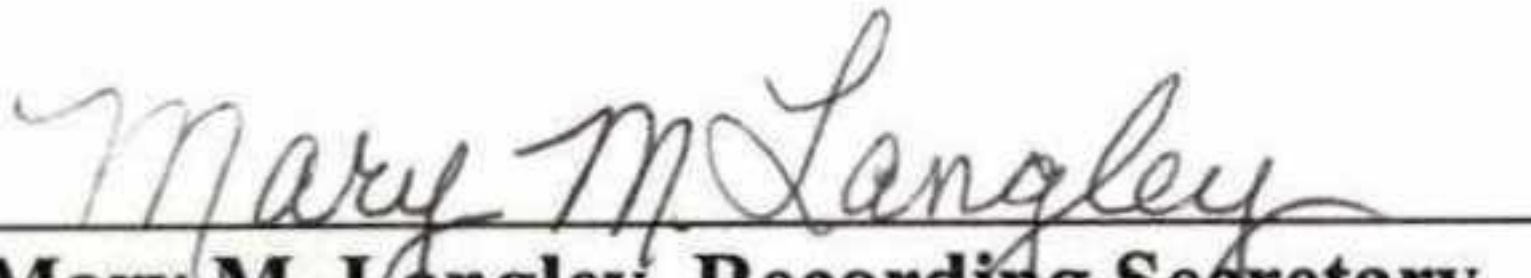
Present: Douglas S. Durkin

Mr. Durkin presented the information packet for next week's discussion, outlining the contents in the packet and indicating that the discussion will be in open session not in executive session as indicated on his request for appointment.

ADJOURNMENT

The meeting was duly adjourned at 5:20 p.m.

Minutes Approved on 12/1/98
by Board of St. Mary's County Commissioners


Mary M. Langley, Recording Secretary