

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
December 1, 1998**

Present: Commissioner President Barbara R. Thompson
Commissioner D. Christian Brugman
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
John J. Kachmar Jr., County Administrator
Mortimer L. Smedley, Assistant County Administrator
Judith A. Spalding, Recorder

(Commissioner Paul W. Chesser was not present due to a death in the family.)

CALL TO ORDER

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

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Brugman, to approve the minutes of the Commissioners' meeting of Tuesday, November 24, 1998, as amended. Motion carried.

APPROVAL OF CHECK REGISTER

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

ADDITIONS/DELETIONS TO AGENDA

Commissioner Brugman moved, seconded by Commissioner Eagan, to accept the agenda as amended (to add an executive session on litigation; to add a presentation to HotSpot Communities participants; to add a presentation to the Commissioners; to add discussion on legislation; and to change the meeting date of the discussion/decision on the plumbing and natural gas codes). Motion carried.

During discussion of the agenda, discussion arose regarding the scheduled discussion/decision relative to amendments to the natural gas/plumbing codes and the voice mail from the County Attorney. Mr. Durkin's voice mail indicated that it was his interpretation of the Maryland Annotated Code, that the new board will assume office as of 12:01 a.m., Monday, December 7, and the current board should not meet on that date to make a decision on the referenced codes.

The Commissioners directed staff to prepare an Ordinance for their consideration which deletes the illegal provisions relative to licenses with a clause that references other documents that mention those licenses.

After discussion and review with County Attorney Durkin, the Commissioners agreed to conduct the meeting on Friday, December 4, 1998 at 6:00 p.m. (The open record on the hearing will remain open until 5 p.m. on December 4.)

CONSENT AGENDA

Correspondence to:

1. Chair, Economic Development Commission expressing appreciation for submittal of annual report.
2. Chair, Development Review Forum expressing appreciation for submittal of annual report.

3. Chair, Agriculture, Seafood and Forestry Commission expressing appreciation for submittal of annual report.
4. Director, Maryland Emergency Management Agency relative to the selection of St. Mary's County as a nominee for the Project Impact Program.
5. Maryland Department of Environment regarding Sewage Sludge Utilization Permit Application for application of sludge on the U.S. Navy/Webster Field site.

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

PROCLAMATION
PEARL HARBOR REMEMBRANCE DAY

The Commissioners presented a Proclamation designating December 7, 1998 as Pearl Harbor Remembrance Day.

COUNTY ADMINISTRATOR ITEMS

Present: John J. Kachmar Jr., County Administrator

- Calendar of Events
- 1. Budget Amendment 99-15
County Administrator's Office
(To provide funding for position; reclassification, merit increase; and lab fees - \$70,685)

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

2. Resolution No. 98-49
Amendment to Procurement Manual #6

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve and sign Resolution No. 98-49 – Amendment #6 to the Procurement Manual as directed at last week's meeting. Motion carried.

3. Department of Public Works
Deed for Portion of Triangle Drive, Charlotte Hall

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

PRESENTATION TO HOTSPOTS COMMUNITY VOLUNTEERS

Present: Shirley Coles, VISTA Worker

The Commissioners presented Commendations recognizing the following volunteers /organizations for their efforts in the HotSpots Community project: Shirley Coles, Department of Juvenile Justice, Andy Holton, Dennis Nicholson, Patricia Tippet, Barbara Garrison, Tammy Joy, Manny Sanchez, Polly Davis, Rosalon Campbell, Thany Butler, Teen Center, St. Mary's County Fair, Leonardtown Library, Lexington Park Library, Jerry Johnson, Leonard's Freehold, Lex Manor, Patuxent Woods, Walt Biscoe, The Alliance, and Head Start.

PRESENTATION TO BOARD OF COUNTY COMMISSIONERS

Present: Judith Spalding, Administrative Assistant to the BOCC
Sheriff Richard Voorhaar

Presentation of Gifts

Ms. Spalding presented amusing gifts to each of the outgoing Commissioners.

Presentation of Certificate of Appreciation

Sheriff Voorhaar presented a Certificate of Appreciation to each of the outgoing Commissioners.

LEGISLATIVE ITEMS

Commissioner Jarboe presented a draft Resolution encouraging state and federal elected officials to enact legislation to ban the partial birth abortion procedure.

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

Commissioner Thompson pointed out that she had a legislative proposal to request authority for the establishment of a Compensation Review Committee to look at elected officials salaries. She stated that she submitted the proposal to Delegate Slade; however, the Commissioners agreed to review her proposal at Friday's meeting.

ST. MARY'S COUNTY AIRPORT

Present: Douglas Durkin, County Attorney
James Haley, Manager, Office of Central Services
Steve Bildman, FBO
Bryan Dugan, Attorney for FBO

The referenced individuals appeared before the Board to review and discuss a number of documents relative to the completion of new lease agreements with Allied Hangars, Inc. and Airpark Sales and Services, Inc.

Mr. Durkin advised that there have been revisions and continued negotiations, almost all of which involve economic factors and agreement terms pertaining to financial issues. He pointed out; however, those negotiations have reached an impasse. County Attorney Durkin reviewed the elements of the proposed revised Allied Lease & Airpark Sales and Services, Inc. Operating Agreement. The review included the Lease Plan; Lease Terms (including grant assurances, minimum standards and airport rules, failure to comply with grant assurances, minimum standards and airport rules, abnormal and deficient county leases and operating agreements, Letter of Understanding which creates a problematic two-tenant combined rental agreement, standard and fair market value rental rates, deal breakers and unresolved issues, construction of terminal without prior resolution of common area lease); options and decisions to be made.

During Mr. Durkin's presentation, he advised that the grant assurances indicate that the airport must be self-sufficient.

Mr. Haley indicated there were two issues remaining that have not been resolved during these negotiations: the cap on the CPI; and the cap with respect to fuel flowage fees (\$.16). Mr. Haley indicated it was his recommendation, based on negotiations, based upon what the leases were like in the past, and based upon what is there today, that the Commissioners accept Mr. Bildman's final terms. In addition Mr. Haley presented *Revenue Projections Based on Options: Current Airport Revenues with Letter of Understanding; Revenues if Agreement not reached; and Revenues if Agreement is reached.*

Mr. Dugan also pointed out that the negotiations have come to an impasse, and went on to explain the investment that Mr. Bildman has made in the airport.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to accept the tenant's final terms which includes a cap of \$.16 on fuel flowage fees and CPI cap at 2% per year; and that the Commissioners and staff should be prepared to carefully audit and scrutinize all Allied and Airpark accounts, and to aggressively commence assessment of 3% of gross receipts of those other corporations operating at the airport but not paying rent who are utilizing Airpark's operating agreement privileges such as Piedmont and the corporations renting aircraft to Airpark. After discussion motion failed zero to four, with all four Commissioners present voting against.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to direct staff to prepare documents accepting the final demand of the tenants and to authorize the President of the Board to execute the documents on or before December 6, 1998. Motion carried.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 99-14 – Office of Central Services (purchase of Allied Hangar Leasehold Interest in tie down spaces - \$88,595 – Capital Projects; \$142,595. Motion carried.

COUNTY COMMISSIONERS' TIME

Animal Welfare League

Commissioner Jarboe inquired about the status of the contract with the Animal Welfare League and requested that it be put before them on Friday when the Board meets on the plumbing code. The Commissioners agreed to add the contract to the December 4 agenda.

Staff Support for Transition Team

Commissioner Brugman stated that the Commissioners at last week's meeting offered county staff support to the Transition Team as long as it did not interfere with normal business. Commissioner Eagan noted that some staff was unable to do county work, because of work for the new board. Commissioner Brugman further questioned non-elected people giving order to staff.

Commissioner Brugman moved to direct staff not to cooperate because it is interfering with regular county business. Motion failed for lack of a second.

Discussion included that any requests to staff go through the County Administrator; whether the transition and orientation meeting will be held in the open; who is paying for copies for the transition team; and that copies of any correspondence should be available for public review.

Commissioner Brugman moved, seconded by Commissioner Jarboe, to require that the Orientation scheduled for tomorrow (December 2) be held in Room 14 and that it be televised. Motion carried.

EXECUTIVE SESSION

Commissioner Eagan moved, seconded by Commissioner Jarboe to meet in Executive Session to discuss a matter of Litigation (Graham vs. Board of County Commissioners), as provided for in Article 24, Section 4-210(a)8. Motion carried.

Executive Session – Litigation (Graham vs. Board of County Commissioners)

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
John J. Kachmar Jr., County Administrator
Mortimer L. Smedley, Assistant County Administrator
Douglas Durkin, County Attorney
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a) 8
Time Held: 4:25 p.m. – 5:05 p.m.

Action Taken: The County Attorney provided a status report for the referenced legal issue and requested direction from the Board.

Follow Up to Executive Session

Commissioner Brugman moved, seconded by Commissioner Jarboe, to direct staff to proceed with settlement negotiations as discussed in Executive Session. Motion carried.

ADJOURNMENT

The meeting adjourned at 5:07 p.m.

Minutes approved by the
Board of County Commissioners on 12/4/98

Judith A. Spalding
Judith A. Spalding, Recorder