

**BOARD OF COUNTY COMMISSIONERS' MEETING**

**Tuesday, December 11, 1990**

**Present:** Commissioner Carl M. Loffler, Jr., President  
W. Edward Bailey, Commissioner  
Robert T. Jarboe, Commissioner  
John G. Lancaster, Commissioner  
Barbara R. Thompson, Commissioner  
Edward V. Cox, County Administrator  
Judith A. Spalding, Recording Secretary

**CALL TO ORDER**

The meeting was called to order at 9:00 a.m.

**APPROVAL OF MINUTES**

Commissioner moved, seconded by Commissioner to approve the minutes of the Commissioners' meeting of Tuesday, December 4, 1990. Motion carried.

**APPROVAL OF BILLS**

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve payment of the bills as submitted. Motion carried.

**AGENDAS**

Commissioner Thompson suggested that agendas be made available on Tuesdays in the back of the conference room for those individuals who needed them. The Commissioners gave their concurrence.

**COUNTY ADMINISTRATOR'S ITEMS**

Present: Edward V. Cox, County Administrator

1. **BUDGET AMENDMENTS**

The County Administrator presented the following budget amendments recommended for approval by the Director of Finance with justifications as indicated:

**Budget Amendment No. 91-25  
Fire Departments**

Justification: Fire/Emergency medical study - \$39,800

**Budget Amendment No. 91-30  
St. Clements Island Museum**

Justification: Supplemental expenses that for the operation of the Piney Point Lighthouse; due to no budget funding during normal budget cycle.

Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign the Budget Amendments as presented. Motion carried.



2) BOARDS, COMMITTEES, COMMISSIONS

Commissioner Bailey moved, seconded by Commissioner Lancaster, with motion carried, to appoint the following individuals with terms as indicated:

	Terms to Expire
<b>Adult Public Guardianship Review Board</b>	
Gary Anderson (Reappt)	12/31/93
Samuel C. P. Baldwin "	12/31/93
<b>Agriculture Commission</b>	
James B. Beaven, Sr. (Reappt)	12/31/93
R. Johns Dixon "	12/31/93
<b>Cable TV Advisory Committee</b>	
Mary Lillian Hewitt	12/31/92
William P. Hardman	12/31/94
<b>Coastal Resource Advisory Committee</b>	
Janice Berry-Chen (Alternate)	12/31/92
Robert F. Chapman (Reappt)	12/31/92
Jon R. Grimm (Reappt)	12/31/92
Joe Mienert (Alternate)	12/31/92
<b>Council on Children and Youth</b>	
Jean Engman (Reappt)	12/31/93
<b>Human Relations Commission</b>	
Janet Haugaard	06/30/94
Michael McCauley	06/30/94
Carletta Cyrus Parmes	06/30/94
Gail D. Ryan	06/30/94
Laraine Tyska	06/30/94
<b>Library Board of Trustees</b>	
Mary Ann Chasen (Reappt)	12/31/95
<b>Metropolitan Commission</b>	
Frances P. Eagan (Reappt)	12/31/93
<b>Nursing Center Board</b>	
Rose M. Slade (Reappt)	12/31/93
<b>Recreation and Parks Board</b>	
James M. Banagan	12/31/94
John P. Harden (Reappt)	12/31/94
<b>Sheriff's Department Pension Plan Board of Trustees</b>	
Corporal Steven M. Doolan	No Term
<b>Tri-County Youth Services Bureau</b>	
Diana Donahue (Reappt)	12/31/92
<b>Zoning Board of Appeals</b>	
Joe Ellis	12/31/91/95



3) **Letters of Appreciation  
Oath of Office**

The County Administrator presented correspondence for the Commissioners' signatures expressing appreciation to those individuals who donated services for the Oath of Office ceremony held December 3, 1990 at the Leonardtown High School.

The Commissioners agreed to sign and forward the letters.

4) **ST. MARY'S COLLEGE/ST. MARY'S CITY MERGER PROPOSAL**

The County Administrator presented correspondence addressed to Governor Schaefer indicating that the fulfillment of the different missions of St. Mary's College and St. Mary's City requires that they remain independent. The letter indicates that a decision be delayed until the County Commissioners and legislative delegation have an opportunity to develop a proposal.

Commissioner Jarboe moved, seconded by Commissioner Bailey, to sign and forward the letter. Motion carried.

5) **BOARDS, COMMITTEES, COMMISSIONS  
PROPOSED BY-LAWS**

The County Administrator presented the following proposed by-laws for the Commissioners' review and approval:

**Planning Commission**

Revised to amend Article IV, Section 4 by removing restriction of number of terms an officer can serve.

Commissioner Bailey moved, seconded by Commissioner Thompson, to approve the by-laws as revised. Motion carried.

**Community College Advisory Board**

Commissioner Lancaster moved, seconded by Commissioner Bailey, to approve the by-laws for the Community College Advisory Board as presented. Motion carried.

6) **ECONOMIC IMPACT FEE REFUND POLICY**

The County Administrator advised that in October the Commissioners approved an economic impact fee refund to an individual who had abandoned plans to build; however, that was done on a one-case basis. County Administrator Cox inquired whether the Commissioners wished to adopt a policy with regard to economic impact fee refunds.

Commissioner Jarboe moved, seconded by Commissioner Bailey, to adopt a policy that any building permit issued for which the applicant chooses not to build the impact fee will be refunded and further to authorize the Office of Planning and Zoning to effect the refund without obtaining Board of County Commissioner approval. Motion carried.

7) **RESOLUTION NO. 90-23  
POLYVINYL CHLORIDE (PVC) PLASTIC PIPE**

The Commissioners having conducted a public hearing on November 13, 1990, Commissioner Lancaster moved, seconded by Commissioner Bailey, to approve Resolution 90- rescinding Resolution No. 85-06 and Resolution No. 90-18 and accepting the recommendation of the Plumbing Board to approve the use of Polyvinyl Chloride (PVC) Plastic Pipe, Schedule 40. Motion carried.



8) BOARD DECISIONS

Relative to the December 3, 1990 memorandum from County Administrator Ed Cox setting forth decisions needed by the Commissioners as they begin their terms of office, Commissioner Thompson raised a question regarding A3 (majority of Commissioners authorizing action outside of a formal meeting). She referred to the Open Meetings Law and inquired whether it should be designated as a emergency meeting and that the procedures of the Open Meetings Law should be followed.

After discussion Commissioner Thompson moved, seconded by Commissioner Bailey, to accept the County Administrator's Operational Policies and Procedures Memorandum with the amendment to A3 to define "official action" and that procedures of the Open Meetings Law are to be followed with regard to notification. Motion carried.

DEED OF EASEMENT AGREEMENT  
JEFFERSON STREET WATER MAIN PROJECT

Present: Joseph Densford, County Attorney  
Tom Shea, Town Manager

The referenced individuals appeared before the Commissioners to present a Deed of Easement Agreement between the Board of County Commissioners and the Commissioners of Leonardtown conveying a 20 foot permanent easement for a new eight-inch water line along Maryland Route 5 in front of the Nursing Center. The purpose of the project to upgrade and replace the current deteriorating line. The Leonardtown Commissioners have approved the project.

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve and sign the Deed of Easement Agreement as presented. Motion carried.

ARTICLES OF INCORPORATION  
ST. MARY'S COUNTY HOUSING AUTHORITY

Present: Joseph Mitchell, Director, Economic & Community Development

As a follow up to Mr. Mitchell's presentation of November 27, the Commissioners indicated their concurrence with the Articles of Incorporation for the St. Mary's County Housing Authority with the amendment adding "subject to approval of the Board of St. Mary's County Commissioners" to Article V(a)6 and 7.

After discussion, Commissioner Lancaster moved, seconded by Commissioner Bailey, to approve the Articles of Incorporation for the St. Mary's County Housing Authority as amended. Motion carried.

Later in the meeting, the County Administrator presented Resolution No. 90-24 adopting the St. Mary's County Housing Authority Articles of Incorporation. Commissioner Lancaster moved, seconded by Commissioner Thompson, to adopt the Articles of Incorporation as presented. Motion carried.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator

Commissioner Bailey moved, seconded by Commissioner Lancaster, to meet in Executive Session to discuss a matter of Personnel. Motion carried. The Session was held from 10:00 a.m. to 10:40 a.m.



GENERAL OBLIGATION BOND SALE

Present: Charles Wade, Director of Finance

Mr. Wade advised that Standards and Poor has given a rating of A+ to St. Mary's County Government for its upcoming general obligation bond sale. The rating from Moody's is forthcoming.

BOARD OF EDUCATION  
SUPPLEMENTAL BUDGET REQUESTS

Present: Charles Wade, Director of Finance

With regard to previous discussions and in preparation for the meeting with the Board of Education later in the day regarding the Board of Education's request for supplement budget funds, Mr. Wade reviewed the Board of Education's December 5 letter and presented and reviewed his recommendations. During discussion Mr. Wade expressed concern regarding the uncertainty of state and federal funding and recommended that the Commissioners apply funds that are not used for fuel oil to 1992 capital projects. During discussion the Commissioners identified the areas in which they were in agreement.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator  
Dan Ichniowski, Director, Public Works

Commissioner Bailey moved, seconded by Commissioner Thompson to meet in Executive Session to discuss a matter of litigation. Motion carried. The Session was held from 11:45 a.m. to 12:00 Noon.

(The Commissioners left at 12:05 p.m. to attend a meeting with Baltimore Gas and Electric Company officials at Olde Breton Inn.)

PUBLIC HEARING  
HOMESTEAD PROPERTY TAX CREDIT

Present: Charles Wade, Director of Finance

The Commissioners conducted a public hearing on the establishment of a homestead tax credit percentage for property owners as provided in Section 9-105 of the Tax Property Article of the Annotated Code of Maryland. Mr. Wade indicated that the State has set the rate at 110% and recommended that the Commissioners follow the State and set the homestead tax credit for St. Mary's County at 110% beginning July 1, 1991.

The Commissioners opened the meeting to questions and comments from the audience.

Mr. Doug Ritchie requested the Commissioners to not set it at 110% but to leave it at 100%.

The Commissioners closed the hearing and advised that a decision will be made at the December 31 meeting.

BOARD OF EDUCATION

Present: Dr. William Burroughs, Superintendent  
Robert Kirkley, Vice-Chairman, Board of Education  
Jean Campbell, "  
Al Lacer, "  
Jonathan Nelson, "  
Rorick Thomas, student member

1) Executive Session

Commissioner Bailey moved, seconded by Commissioner Lancaster, to meet with the Board of Education concerning property acquisition. Motion carried. The Session was held from 2:40 p.m. to 3:25 p.m.



2) Supplemental Budget Request

The Commissioners reviewed with the Board of Education the items requested by the Board of Education for the supplemental budget.

Dr. Burroughs reviewed the history of the requests which began on May 18, 1990 which outlined the priorities. Because of a significant fund balance from the Board of Education, the Board of Education submitted a request to spend from that balance. In addition the Board of Education requested that a portion of the county's fund balance be used towards education.

The County, in order to complete its audit, designated \$4.6 Million as a fund balance, \$2.6 Million of which was designated for education.

After considerable discussion, Commissioner Lancaster moved, seconded by Commissioner Thompson, to appropriate supplemental budget funds as follows:

State reduction in basic aid to transportation - \$	104,000
Replace deferrals for BOE base budget	198,342
Nursing Program	3,000
SHOP/SHOUT/PACE materials	12,000
Textbooks	15,946
Instructional equipment	291,142
Postage Meter and Sealer	5,300
Fax Machine	1,600
Loveville Copier	133,300
Fuel (Gasoline Reserve	105,190
Purchase relocatables	213,000
Greenview Knolls equipment	60,000
Three (3) school buses	135,000
<b>TOTAL</b>	<b>\$1,277,820</b>

The balance of \$908,522 (\$2,616,842 - fund balance designated for education less \$1,277,820 - referenced appropriations) will be applied to land acquisition for the Sixth District Elementary School and for energy costs. Motion carried three to two with Commissioners Bailey and Jarboe voting against.

OFFICE OF PLANNING AND ZONING

Present: Jon Grimm, Director  
Peggy Childs, Recording Secretary

1) DISCUSSION/DECISION

**SPEC #89-1911 - CHARLOTTE HALL BUSINESS PARK**

Requesting a water category change from W-6 to W-3 for this property located in the 5th Election District.

**SPEC #84-0663 - SUMMIT HILL, SECTION 2**

Requesting a water category change from W-6 to W-3 for this property located in the 5th Election District.

Mr. Grimm reminded that public hearings were held on both requests on September 18, 1990 and subsequently discussed on October 2, 1990; decisions were deferred pending the Commissioners' meeting with Water Resources Administration and the potential for setting a water policy for the northern end of the County. Commissioner Loffler stated he still feels a water policy should be adopted, but is bringing the applications forward for a decision rather than delay them any longer. The Planning Commission has recommended approval in both cases.



Commissioner Bailey moved for approval of category changes from W-6 to W3 for both Charlotte Hall Business Park and Summit Hill, Section 2. The motion was seconded by Commissioner Jarboe and passed by a vote of 3-1, with one abstention; Commissioner Loffler voted against, and newly elected Commissioner Barbara Thompson abstained, not having participated in the public hearing or previous discussion.

2) PUBLIC HEARING

ADEQUATE PUBLIC FACILITIES

Requesting approval of two Resolutions concerning adequate school facility guidelines adopted by the Board of Education as follows: Resolution #1990-8, School Capacity to Meet Requirements for Adequate Facilities Ordinance; and Resolution 1990-9, School Population Generations from Proposed Developments for Adequate Public Facilities Ordinance.

Also Present: Dr. Burroughs, Superintendent of Schools  
 Robert Kirkley, Vice-Chairman, Bd/Education  
 Jean Campbell, "  
 Al Lacer "  
 Jonathan Nelson "  
 Rorick Thomas, student member, "  
 Other members of St. Mary's County Public Schools  
 Several members of OPZ staff, the Planning  
 Commission, the Development Community and their  
 Representatives

The legal ad for this public hearing was published in The Enterprise on November 28th and December 5, 1990; a copy of the applicable section of the St. Mary's County Zoning Ordinance was available to the public and was read by Mr. Grimm, who also offered background information. Also available were copies of Resolutions #1990-8 and #1990-9; Mr. Himmelheber made a brief presentation regarding enrollment figures (0.467 average students per housing unit, local rated capacity, and Official Full Time Equivalent Enrollments.

Mr. Cox then opened the hearing to public comment. The following is a summary of comments made by those present.

**Joseph M. Gough, Jr., Chairman of First National Bank of St. Mary's**  
 Expressed his concerns and concerns on behalf of his customers regarding the effect of planning actions on an already weak housing industry and economy; figures used to calculate school capacity are unrealistic and more stringent than the State's, and may exclude the County from getting State funds; stressed school facilities should be adequate but not a "wish list"; mobile units and multi-purpose, non-traditional classrooms should be factored in.

**Attorney Oliver Guyther**

Adequacy of Public Facilities regulations tips the scales into an unconstitutional area that amounts to taking of private property without due process or without compensation in order to control growth, and is economically and socially wrong and will be challenged in Court at some point. Pass a Resolution amending the Zoning Ordinance to include the same public facilities requirements as #78-43 - water and sewer.

**Ford L. Dean, Homeland Mortgage Company**

It is only logical that sufficient infrastructure be present to serve development, but the implementation of an adequate facilities ordinance must be accomplished in a manner which is reasonable and practical, and takes into account the realities of the current situation. Local capacity guidelines are much more severe than the State's and if adopted, will be like drawing a curtain on new development; this is unreasonable and not in the best interest of



the County. More time is needed to let the transfer tax, the impact fee, and the Capital Budget work, and he recommends using the State guidelines for elementary schools, for middle and high schools eliminate the 90% utilization factor and include mobile classrooms to allow the phase-in time desired; furthermore this would not preclude striving to reach the goals of Resolution 1990-8 if we can afford it.

Regarding historical enrollment numbers, the trend of average student per household unit was a decline, but by averaging it over the ten year period of 1980-1989 the yield per house is higher than the actual trend, and this impacts capacity. It would seem to be more appropriate to look at this on the most recent year's figures, because that represents the more actual conditions and the trend. Mr. Dean urged the Board of County Commissioners and the Board of Education to rework the two resolutions as they apply to adequate public facilities, not to deter the Board from its goals but so as not to draw a curtain on development, which will wreak economic havoc with this community.

**Attorney Al Lacer, Member of the Board of Education**

There is a fundamental misapplication of Board of Education policy regarding facilities relating to adequate public facilities. The State does not recommend student population guidelines of 30-1 in elementary schools. The Interagency Commission on School Constructions establishes pragmatic guidelines for the contribution of State monies, there is no State standard which is being exceeded by the local Board of Education. Their determinations are not grandiose, they are relatively modest - 22-1 and 25-1 are ratios that any community seeking minimum educational quality will establish for itself. Their goals are not unreachable; in fact the County Commissioners have just approved the Board's CIP which will house elementary grades in permanent classrooms at those ratios, and that is a credit to this Board of County Commissioners. The middle and high schools have rates of capacity in excess of students projected over the next 6-year period, so he is a little confused when he reads in the paper that a subdivision is being denied because there aren't adequate educational facilities, and there is a misunderstanding and a misapplication of Board policy.

The two objectives of proper education and appropriate development reside in the same house and will either rise together or suffer together. St. Mary's County has the policy for adequate facilities and it need not and ought not to back off of these objectives. The demographic issue relates to the household yield as our society changes and it is not a static number, it has to be revisited every year.

Mr. Lacer said the Oakville School is over-capacity and there are no plans to build additional classrooms at Oakville; but the new Hollywood Elementary School and the Dent Elementary School expansion will ease the pressure through redistricting. We should look at the County in terms of total capacity rather by neighborhood, and he urges the development community to look at how we interpret the provisions rather than sacrifice the quality of our schools - we can have both.

**Joe Daley, Realtor**

At what point in the development process does adequate public facilities come into play and if someone had had a lot for a long time could they build on the lot. Mr. Grimm said lots of record before 8/1/90 are not affected by adequate facilities, nor are single family homes or 3 lot subdivision.



**Frank Gerred**

Need to go back and take another look at our statistics by age group and grade, as the elementary schools seem to have bulged where middle and high schools have declined, although the net appears to be about the same.

**Herb Redmond, Registered Surveyor, DH Steffens Co.**

Talked about Roads and Fire Suppression - he said he has to design retention ponds in a subdivision for fire suppression but that won't solve the problem if there is no access, and suggested the Commissioners help procure the right-of-way for utilities in order to give the best protective system we can offer at a reasonable cost.

**Bob Combs, Builder, representing the Building Industry**

If the impact fee, the 6-year CIP and the transfer tax can provide adequate public facilities available for schools then this issue is not an issue.

**Tom Waring, Developer**

Are private schools included in the figures? Answer: No, 20% of the student population in the County go to private schools and are not included in the computations.

**Tom Howard - Surveyor**

Mr. Howard said he was confused because in the last 2-3 weeks they have had a lot of comments that school facilities are not adequate and quite a lot of them are coming from school administrators. This needs to be looked into because there are quite a few subdivisions on hold.

**Attorney Jim Kenney**

If what he is hearing is the policy of this Board and what we have is one school district we need to make some changes in our Ordinance language, and he would hope the Board would move very quickly. Roads are different, but we have an impact fee that relates to Roads and Recreation & Parks, and we still talk about "service area" in the Ordinance; if we do have one "service area" we need to make that very clear. A lot of people were very anxious about APF, and this turnout indicates that, and the Board needs to make a very clear statement that this is not a problem so these people can get on with their lives.

This was the end of the comments, and Commissioner Loffler closed the public hearing at 5:28 p.m.

7:00 P.M.

Prior to Legislative Package Public Meeting the Commissioners attended the Council of PTA's meeting with the Board of Education and the Legislative Delegation.

**PUBLIC MEETING**

**1991 LEGISLATIVE PACKAGE**

Present: Senator Bernie Fowler  
Delegate J. Ernest Bell, II  
Delegate John F. Slade, III  
Delegate John F. Wood, Jr.

County Administrator Ed Cox reviewed each of the 24 legislative proposals and noted that the Board of County Commissioners have not taken action on them. He stated that after the public meeting the Commissioners will meet to take positions on the items after which they will meet with the legislators to review each item and present the Board's position.



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The meeting was opened for public questions and comments.

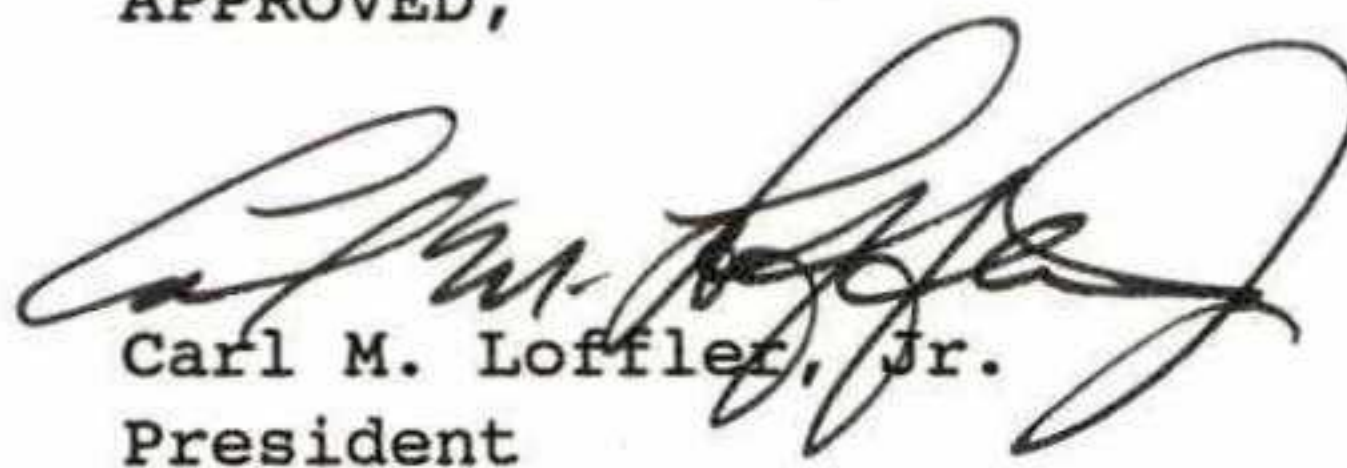
During review Mr. Ichniowski, Director of Public indicated that he will be requesting an additional item to the package--Creation of a State for an addition to the Detention Center.

A tape of the proceedings is on file in the Commissioners' Office.

ADJOURNMENT

The meeting adjourned at 8:50 p.m.

APPROVED,



Carl M. Loffler, Jr.  
President