

**ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS' MEETING**

Tuesday, September 10, 1991

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**Present:** 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 Jarboe moved, seconded by Commissioner Thompson, to approve the minutes of the Commissioners' meeting of Tuesday, September 3, 1991. Motion carried.

**APPROVAL OF BILLS**

Commissioner Bailey moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the Check Register as presented. Motion carried.

**DIRECTOR OF FINANCE**

**Present:** Charles Wade, Director

**1) LEONARDTOWN HVAC SYSTEM AND RENOVATION**

Prior to the meeting with the Board of Education later in the day, Mr. Wade distributed a memorandum regarding the Board of Education's request for transfer of \$500,000 left over from other projects for the Leonardtown heating system renovations. He stated that prior to making a decision on this request the Commissioners need to consider several facts before taking action: \$564,00 for equipment for three schools had been deferred until FY '93, possibility of Board of Education requesting relocatable classrooms, and projects that had been deferred from FY '92.

The Commissioners will address this issue with the Board at the joint meeting later today.

**2) DEVELOPMENT OF FISCAL YEAR 1993 BUDGET  
BOARD OF EDUCATION**

The County Administrator distributed the schedule for the development of the Fiscal Year 1993 budget stating that the Board of Education Budget presentation is scheduled for January 28 and a three-hour session to be held on February 11 to discuss the budget issues with the the Board of Education.

The Commissioners gave their concurrence.

**3) GENERAL OBLIGATION BOND RESOLUTION**

Mr. Wade presented a Resolution which supplements the Resolution the County adopted on December 13, 1990 authorizing the issuance of general obligation bonds to finance Pegg's Road and St. Andrews Landfill projects from the proceeds from the sale of such bonds. The arbitrage arrangement on the 1990 bond issue required 10% of funding to be expended in six months; 45% in 12 months; 75% in 18 months and the remainder in two years. Failure to spend on this schedule would result in a 1 1/2% penalty on the balance of the issue. In order to avoid the penalty, Mr. Wade recommended reprogramming the



funds. The referenced Resolution would fund Green Holly and Lettie Dent School additions from the 1990 Bond Issue and the Pegg's Road and St. Andrews Landfill projects would be included in the 1991 bond issue.

After discussion Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and sign Resolution No. 91- . Motion carried.

**COMMENDATION**

Present: Erin Burch  
Tom Oliver, Director, Emergency Management  
Paul Wible, EMA  
Shirley Wood, EMA

The Commissioners presented a Commendation to Erin Burch for her special act of service in her handling of a 911 emergency call involving a drowning child.

**PROCLAMATIONS**

The County Commissioners presented the following Proclamations:

**911 Emergency Number Day**

Designating September 11, 1991 as 911 Emergency Number Day in St. Mary's County.

**Forget-Me-Not - Disabled American Veterans**

Designating September as Disabled American Veterans Forget-Me-Not Month.

**DEPARTMENT OF PUBLIC WORKS**

Present: Dan Ichniowski, Director

**1) ROAD ORDINANCE REVISIONS**

As a follow up to previous discussion, Mr. Ichniowski presented and reviewed the following Road Ordinance revisions in the following areas:

- Multiple Driveway Entrances
- Subdivision Road Bond and Fees
- Typical Driveway Standards and Entrance Permit Requirements
- Grading Permits for Stormwater Management Facilities

During discussion Commissioner Bailey expressed concern regarding the 9% of construction estimate fee for Minor Subdivision Roads and suggested that it be set fairly.

After discussion Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign the four Policy Statements for Road Ordinance revisions as presented. Motion carried.

**2) KINGSTON ESTATES SUBDIVISION  
SPECIAL TAXING DISTRICT FOR FOR IMPROVEMENTS**

Mr. Ichniowski presented a draft handout to be distributed at the public informational meeting for the establishment of a special taxing district to bring roads up to county standards in Kingston Estates Subdivision. The meeting is scheduled for September 24.

**3) PUBLIC WORKS AGREEMENTS**

Mr. Ichniowski presented the following Public Works Agreements for the Commissioners review and consideration:



**Avenmar, Section 1**

Dated July 26, 1991 between Avenmar Limited Partnership and St. Mary's County guaranteeing completion of Avenamr Drive and Avenmar Court by July 1, 1992. The Agreement is backed by a Letter of Credit with The Palmer National Bank in the amount of \$340,000.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Vice-President Bailey to sign the Agreement as presented. Motion carried. (Commissioner Loffler did not participate because he has been involved in this project.)

**Summitt Hill, Section 2**

Dated June 4, 1991 between Summitt Hill, Inc. and St. Mary's County guaranteeing completion of Summitt Hill Drive, Carroll Manor Road, and Summitt Hill Court by May 1, 1992. The Agreement is backed by a Letter of Credit with Bank of Southern Maryland in the amount of \$273,600.

**Summerwood, Section 1**

Dated August 22, 1991 between William P. Gloster, III and Gretchen G. Gloster and St. Mary's County guaranteeing completion of Stoney Run Drive and Summerwood Court by August 1, 1992. The Agreement is backed by a Letter of Credit with Potomac Savings Bank in the amount of \$308,600.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Public Works Agreements for Summitt Hill, Section Two and Summerwood, Section One, as presented. Motion carried.

**OFFICE OF PLANNING AND ZONING**

Present: Jon Grimm, Director, Planning and Zoning  
Peggy Childs, Recording Secretary

**ADMINISTRATIVE POLICY DISCUSSION**

**53.20 - PIERS AND BULKHEADS**

Mr. Grimm offered the proposed policy which is the result of an administrative amendment adopted by the Commissioners effective June 24, 1991 regarding Section 53.20, which directed the Planning Commission to establish a method and regulations, subject to County Commissioners' approval, for determining the extension of waterfront property lines into State waters.

The proposal attempts to define a middle ground on the riparian extension of waterfront property lines by intersecting all property lines (of applicant's and adjacent properties within a 200 ft. radius) with the shoreline to create counterpoints; bisecting the chords to find the midpoint; drawing a line perpendicular to the chord at the point of bisection and extending the perpendicular line by different methods according to whether the property is on a cove, a peninsula, or a straight shoreline; then determining the useable waterway defined by the extended property lines for the appropriate waterway condition.

The Planning Commission reviewed the proposal in detail at its August 26th meeting, voted to recommended approval of the proposed policy to the County Commissioners, with the following added provisions:

- 2.a.(7)(iv) For properties from which extended property lines intersect in such a way that the property's useable waterway is eliminated, the angles defining the unbuildable area shall be bisected to provide a useable waterway to the greatest extent possible.
- 2.c Properties which have no useable waterway under the provisions of this section may be eligible for review by the Board of Appeals as a hardship in accordance with Article VI.



The method used in the past has been to project property lines straight out into the water in all cases; that causes some problems because in some cases it unfairly restricts the waterfront property owner's rights and doesn't equitably distribute waterfront rights among various property owners.

The Commissioners expressed some concerns regarding the policy, Commissioner Loffler stating the policy might take away rights from some people and give them to others. The potential is there, he said, for someone who had the right to a pier when he purchased the property to lose that right to a pier, and access to the water is the primary purpose to some people for purchasing waterfront property, which is a considerable investment. Also, by giving everyone access for a pier you may block everyone's access and may block the waterway so there's not enough water depth or width for anyone to navigate a boat out of the creek. Under the current policy, he said, a property owner can go to his neighbor and negotiate access, and he thinks by "shoe-horning in" rights to everyone we may create a greater conflict.

Mr. Grimm replied he believes there are 3 things that will protect us from that: (1) Continuing review and permitting by the Army Corps to prevent channel obstruction; (2) the allowance for adjoining property owners to negotiate is still present; and (3) the way the lines are drawn you would not be able to block off someone else's access.

He also quoted paragraph 2. under 53.20 which states in part that "... a riparian owner may not be deprived of any right, privilege, or enjoyment of riparian ownership (such as access or use of a waterway) legally exercised prior to the enactment of this section." There are also other mechanisms built into the policy to remedy such a situation; i.e., negotiation, bisecting the angles of the unbuildable area to provide a useable waterway, and Board of Appeals review of a hardship in accordance with Article VI. In no circumstance, he said, would there be an outright denial if there was a right prior to the adoption of this policy.

Commissioner Bailey admitted the policy bothers him a little bit, saying it seems like every time we change the Zoning Ordinance we screw up something else, and we could be taking someone's bargaining chips away from them, and asked what kind of response was received from the public by the Planning Commission. Mr. Grimm stated the Planning Commission meeting was not a public hearing as this is an administrative policy, but the policy was put forth in public hearings in May and June before the Planning Commission and this Board and the only comment he remembers is that we needed a method for extending the lines other than the one we were using. He added staff and the Planning Commission have seen enough situations in the past where the past practice has caused people to lose their views and have construction occur in front of their property that we wanted to assign some additional protection against the encroachment of the extended property lines and piers out into the water.

Commissioner Thompson asked if other counties have this provision. Mr. Grimm replied Calvert County has a provision that is even more technical. Ms. Thompson pointed out the policy defines "T" heads, and "L" heads, whereas before it didn't, and people could put a pier out to 25 ft. and then add a "T" head. The policy states that no piers, "T" heads, "L" heads, mooring piles, slips, or boathouses shall be constructed within 25 ft. of the extended property line as defined by 53.20.2.

There is also an existing provision in 53.20 for shared piers and that provision would not change, and Mr. Grimm added OPZ is asking waterfront developers to commit up front whether they will have a community pier, shared piers, or individual piers.

Following further discussion, Commissioner Jarboe moved to direct the County Attorney to draft a Resolution for review. The motion was seconded by Commissioner Lancaster and passed by unanimous vote; however, Commissioner Loffler added he wants to make sure we follow what we have discussed today, and if complaints are received from the public he would be looking to amend the policy or give additional instructions to make it very clear that the policy should have the flexibility to carry out what the Commissioners deem as the will of the people. Commissioner Jarboe asked that the Resolution be provided for the Commissioners' review a week prior to the scheduled decision.



Commissioner Loffler recognized a question from Viki Volk, of The Enterprise, as to whether the policy applies only to State waters and shorelines or if it applies to waters under private ownership as well. Commissioner Bailey echoed her concern, stating any creek under 100 yards wide is considered a landlocked creek by State law, and the property owners along that creek own the bottom of the creek from their property to 1/2 mile out. Staff was directed to research the issue prior to preparation of the Draft Resolution.

**EXECUTIVE SESSION**

Present: Edward V. Cox, County Administrator  
Joseph Densford, County Attorney

Commissioner Bailey moved, seconded by Commissioner Lancaster, to meet in Executive Session to discuss a matter of litigation. Motion carried. The Session was held from 10:05 a.m. to 10:35 a.m.

**COUNTY ADMINISTRATOR'S ITEMS**

Present: Edward V. Cox, County Administrator

1) **CORRESPONDENCE**

The County Administrator presented the following correspondence in response to concerns and questions from the community:

To J. Douglas Parran regarding the operations of the Calvert Cliffs Nuclear Power Plant.

To Elise Bowman, Dr. John Roache, Dr. James Boyd, D. Wayne St. Clair, Anne Brooke Stokes regarding the private prison proposal.

To Vincent L. Maier regarding fire and rescue services

The Commissioners agreed to sign and forward the correspondence as presented.

2) **BOARD OF ELECTIONS SUIT - TALBOT COUNTY**

The County Administrator presented a memorandum from the County Attorney dated August 7 regarding the State's suit against Talbot County regarding budgetary authority over the Board of Elections. Several counties have joined Talbot County in support of its position that local Boards of Elections, although state agencies, are funded by the counties and are subject to their budgetary authority.

Mr. Densford, in his August 7 memorandum, recommended that St. Mary's County agree to support the Talbot County position in this case.

Commissioner Bailey moved, seconded by Commissioner Jarboe, to concur in the County Attorney's recommendation. Motion carried.

3) **DAY AFTER THANKSGIVING**

The County Administrator presented a memorandum requesting the Commissioners' approval for a day of forced leave for the day after Thanksgiving in order to afford employees time with families and friends.

After discussion Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve this request. Motion carried.

Commissioner Thompson suggested that since this is done each year, that the Commissioners consider at a later date making this a policy.

Commissioner Jarboe discussed the possibility of using one of the three floating holidays for Christmas Eve when it falls on a week day.



4) **COX, LONG AND COLVIN  
BOARD OF EDUCATION - HEALTH INSURANCE**

The County Administrator distributed a memorandum from Director of Finance Charles Wade forwarding a letter from the county's auditors, Cox, Long and Colvin regarding the Board of Education funds held by Blue Cross/Blue Shield. Mr. Wade recommended that the Commissioners sign correspondence to the Board of Education forwarding the auditor's letter for their consideration.

Commissioner Loffler indicated that before the letter is sent, the County Attorney should review it to make sure that this is the legal opinion of the County that the Board of Education is in violation of State Law.

5) **FIRE/AMBULANCE COMPANIES  
USE OF COUNTY CONTRACTS**

The County Administrator presented a memorandum dated August 29 from the Procurement Officer requesting approval to allow fire and ambulance companies to use existing contracts and county facilities (gas pumps). Mr. Cox stated that the Procurement Officer has been participating with the fire/rescue study committee for centralized purchase of equipment and insurance.

After discussion Commissioner Bailey moved, seconded by Commissioner Jarboe, to grant this request. Motion carried. A formal agreement setting forth details with each company will be submitted.

6) **APPOINTMENTS  
BOARDS, COMMITTEES, COMMISSIONS**

Commissioner Bailey moved, seconded by Commissioner Lancaster, and motion carried, to approve the following appointments:

<u>Enhanced 911/Uniform Addressing Task Force</u>	<u>Term to Expire</u>
Paul A. Sullivan (1st Commissioner District)	No Term
 <u>Ethics Commission</u>	
George E. Smith	6/30/94

7) **ALCOHOL AND DRUG ABUSE ADMINISTRATION  
WALDEN COUNSELING CENTER  
SIERRA HOUSE**

The County Administrator presented notification from the Department of Health and Mental Hygiene indicating that the following projects have received a grant award: Walden Counseling Center - \$287,772; Sierra House - \$157,691.

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Notification of Grant Awards as presented. Motion carried.

8) **CHILD ADULT FOOD PROGRAM CONTRACT  
OFFICE ON AGING - ADULT DAY CARE**

Mr. Cox presented forms for the Commissioners' review and consideration for the renewal of the County's participation in the Child Adult Food Care Program in which USDA reimburses the county for meals at the Office on Aging's Adult Day Centers.

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the forms as presented. Motion carried.

9) **RENTAL ALLOWANCE PROGRAM**

On behalf of the Department of Economic and Community Development, the County Administrator presented an application from the Maryland Department of Housing and Community Development for the Rental Allowance Program for Fiscal Year 1992 in the amount of \$56,340.



Commissioner Thompson moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign the application. Motion carried.

**EXECUTIVE SESSION**

Commissioner Jarboe moved, seconded by Commissioner Bailey, to meet in Executive Session to discuss a matter of Personnel. Motion carried. The Session was held from 12:05 p.m. to 12:55 p.m.

**BOARD OF COUNTY COMMISSIONERS/BOARD OF EDUCATION**

Present: William Burroughs, Superintendent of Schools  
Al Lacer, President, Board of Education  
Jean Campbell, "  
Robert Kirkley "  
Jonathan Nelson "  
Fred Wallace "  
Charles Wade, County Director of Finance

**1) HOLLYWOOD ELEMENTARY SCHOOL**

Dr. Burroughs indicated that the Hollywood Elementary School project is on schedule. Site evaluation has been completed by the Interagency for School Construction, which has sent correspondence listing question they would like addressed. He stated that it is anticipated that the project will be bid in late fall with the contract to be let in January. Target date for completion is January 1993.

**2) FISCAL YEAR 1993 BUDGET PROCESS**

As discussed with the Commissioners earlier, Mr. Wade distributed the schedule for the Fiscal Year 1993 budget process. He discussed the revenue and expenditures for Fiscal years 1991 and 1992 pointing out the severe revenue limitations for Fiscal Year 1993.

During the presentation Mr. Wade indicated that part of the process includes a presentation by the Board of Education of its budget on January 28 and a work session on February 11.

**3) LEONARDTOWN ELEMENTARY HEATING PROJECT**

Mr. Lacer referred to the September 3 correspondence sent to the Commissioners regarding the Board of Education's request to transfer \$500,000 from other projects that had been completed below budget to fund the Leonardtown Elementary School Heating System Renovation.

Commissioner Loffler indicated that it was important not to lose state funding if the County funds 100% of the project. Mr. Himmelheber advised that the state does not forward fund systemic projects, and it would take two years to wait for state funding.

Discussion ensued regarding the issue of state and/or county funding and not jeopardizing the possibility of state funding.

Mr. Lacer suggested that the County approve \$25,000 for planning money.

The Commissioners agreed to look at funding the \$25,000, suggested that the Board of Education look into state funding, and discussion would continue at the next joint meeting.



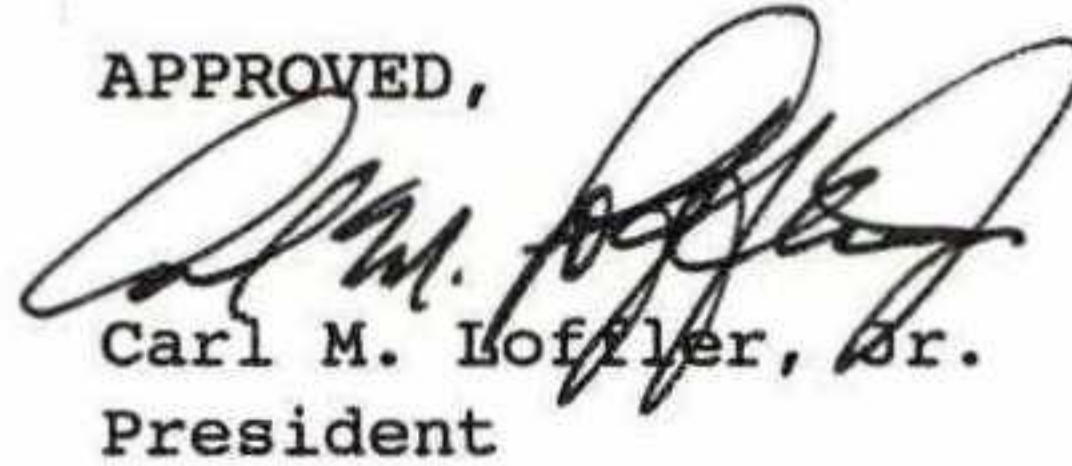
**ADJOURNMENT**

The meeting adjourned at 2:10 p.m.

**TOUR OF CAPITAL PROJECTS**

The Director of Public Works took the Commissioners on a tour of various capital projects: Courthouse, Morganza Turner Road, Baptist Church Road, Clements Landfill.

APPROVED,



Carl M. Loffler, Sr.  
President