

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS
NOVEMBER 15, 1994**

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

CALL TO ORDER

The meeting was called to order at 9:05 a.m.

APPROVAL OF MINUTES

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve the minutes of the Commissioners' meeting of Tuesday, November 1, 1994 and the Planning and Zoning portion of the October 25 meeting. Motion carried.

APPROVAL OF BILLS

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

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) **Department of Recreation and Parks**

Also Present: Phil Rollins, Director

Mr. Rollins presented the following documents for the Commissioners' review and consideration:

St. Clements Island Museum/Friends of the Museum Property

Also Present: Fred Wallace, President, Friends of the Museum
Ed McCall, Treasurer, "

Mr. Rollins presented a Memorandum of Understanding between the Friends of the St. Clements Island Museum, Inc. and the Board of County Commissioners of St. Mary's

County relative to the County's acquisition of property through a Program Open Space Grant in the amount of \$118,150 (\$110,000 for the property and \$8,000 for incidental costs). The 23-acre property, consisting of two parcels including a dwelling, is adjacent to the museum and will be used for expansion and future museum purposes.

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

Wicomico Shores

Mr. Rollins presented a Program Open Space Grant Application in the amount of \$344,000 for the acquisition of approximately 5.5 acres at the Wicomico Shores Golf Course and Recreation Area. Included in this acquisition is a .5 acre waterfront lot adjacent to the existing waterfront park, and up to 11 building lots adjacent to the golf course. No county funds are involved.

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

2) **Waiver of Building Permit Fee
Southern Maryland Firearms**

The County Administrator presented correspondence addressed to the Southern Maryland Firearms approving the waiver of the building permit fee to replace the firearms facility that had been destroyed by fire. The letter advises, however, that the processing fees cannot be waived since they are required to cover the costs associated with processing the applications and plans review.

Commissioner Bailey moved, seconded by Commissioner Thompson, to sign and forward the letter as presented. Motion carried.

3) **Personnel**

The County Administrator presented the following Personnel items for the Commissioners' review and consideration:

Office on Aging

Memorandum dated November 15 advising that the Director of Office on Aging is requesting the establishment of a Regular part-time, Grant Funded, Grade 11 Transportation Assistant position.

Commissioner Bailey moved, seconded by Commissioner Thompson, to approve the request as presented. Motion carried.

1995 Legal Holiday Schedule

Memorandum dated November 15 from the Personnel Officer requesting approval for the adoption of the 1995 Legal Holiday schedule.

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve the Holiday Schedule as presented. Motion carried.

Alcoholic Beverage Board

Memorandum dated November 15 from the Personnel Officer advising that the Chairman of the Alcoholic Beverage Board has requested that the job title for the current Alcohol Beverage Board Clerk be changed to Alcohol Beverage Board Administrator.

Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve change of job title as requested. Motion carried.

4. **Sewage Sludge Permit Applications**

The County Administrator presented the standard correspondence addressed to the Maryland Department of Environment waiving the County's right for a public hearing/meeting on the sewage sludge utilization permit applications for Richard Wood (SM-5) and Eunice Long (SM-13) properties as contained in October 31 correspondence from MDE. The letter reiterates the Commissioners' ongoing concerns over environmental safety and land records notification.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to sign and forward the letter as presented. Motion carried four to one with Commissioner Jarboe voting against.

5) **Children and Family Systems Reform Initiative**

The County Administrator presented correspondence addressed to the Director of the Child and Family Systems Reform Initiative submitting a preliminary budget requesting start up funds in the amount of \$50,000 for the St. Mary's County Systems Reform Initiative.

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

6) **Grant Agreement
Land Acquisition - St. Mary's County Airport**

On behalf of the Department of Public Works, the County Administrator presented a Grant Agreement between Maryland Aviation Administration and the Board of County Commissioners wherein the State agrees to pay 5% (or up to \$19,155) for the cost of acquiring land for airport development and approach protection at the St. Mary's County Airport.

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

7) **Pending List**

The County Administrator distributed a list of pending items that are before the Board. After discussion the Commissioners agreed to review the list and make decisions as to which the current board needs to address and those that should be deferred for decision by the incoming board.

8) **Amendment to Grant Agreement
Tulagi Town Center Revitalization Project**

On behalf of the Department of Economic & Community Development, the County Administrator presented an Amendment to the Grant Agreement with Maryland Department of Economic and Employment Development for the Tulagi Town Center Revitalization Project. The amendment increases the dollar amount of the Agreement from \$500,000 to \$600,000, which will be used by the County for property acquisition, demolition, and clearance associated with the project.

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

9) **Budget Amendments**

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

No. 95-10
Emergency Management Agency

To transfer funds for payment of mileage reimbursement claims (\$1,000)

No. 95-11
State's Attorney

To provide funding for new Assistant State's Attorney position and funding for an administrative position, which was converted to merit effective 10/1/94

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

10) **Grant Agreement**
Control of Noxious Weeds

The County Administrator presented a Grant Agreement between the Maryland Department of Agriculture and St. Mary's County which provides funding for the control and eradication of certain noxious weeds (Johnsongrass, shattercane, thistles, multiflora rose) for the period July 1, 1994 through May 31, 1995.

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

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director

1) **Draft Solid Waste Plan**

Also Present: Melva Abell, Co-Chair, Solid Waste Advisory Committee
William Mattingly, "
Dudley Lindsley, "
Daphne McGuire, "
George Erichsen, Deputy Director, DPW

The referenced members of the Solid Waste Advisory Committee and Department of Public Works staff appeared before the Commissioners to present the draft Solid Waste Plan and draft Resolution approving the Plan.

After an introduction and background presentation by Mr. Ichniowski, Mrs. Abell summarized the public concerns expressed during and after the Public Hearing, explained the Committee's position on various issues, and presented the Committee's recommendation to approve the Plan. Subsequent tasks were explained including enactment of several enforcement measures.

Discussion noted the concerns about private solid waste facilities, the importation of solid waste, regionalization, need for siting requirements for solid waste facilities, and enforcement.

After discussion Commissioner Jarboe moved, seconded by Commissioner Lancaster, to sign Resolution No. 94-24 and to submit the Plan to the Maryland Department of Environment. Motion carried three to two with Commissioners Loffler and Thompson voting against indicating that the Siting Criteria should be included in the Plan.

2) **Development Documents.**

Mr. Ichniowski presented the following documents for the Commissioners' review and consideration:

Chestnut Hills

Deed dated October 31, 1994 between Delmarva Properties, Inc. and Joseph D. Knott and Deborah F. Knott and County Commissioners of St. Mary's County accepting Deer Wood Park Drive and Redmond Road into the County's Highway Maintenance System.

Road Resolution No. R94-22 posting Deer Wood Park Drive and Redmond Road at 25 miles per hour.

Road Resolution No. R94-23 designating the following streets as Stop Streets:

Redmond Road at its intersection with Deer Wood Park Drive
Deer Wood Park Drive at its intersection with Md. Route 5

Greenbrier Subdivision

Deed dated August 21, 1994 between Jay Laurence Millison and County Commissioners of St. Mary's County accepting Topaz Place, Sandstone Street, Mauvy Moss Place, and Green Leaf Road into the County's Highway Maintenance System.

Road Resolution No. R94-26 designating the following streets as Stop Streets:

Green Leaf Road at its intersection with Hermanville Road
Sandstone Street its intersection with Hermanville Road
Topaz Place at its intersection with Sandstone Street
Mauvy Moss Place at its intersection with Sandstone Street

Road Resolution No. R94-27 posting Topaz Place, Sandstone Street, Mauvy Moss Place, and Green Leaf Road at 25 miles per hour

Mulberry North Subdivision

Correspondence addressed to First National Bank of St. Mary's calling Letter of Credit A2-12-09-91 in the amount of \$500 for Entrance Permit 89-1631-2213 for Molly Court

Correspondence addressed to First National Bank of St. Mary's calling Letter of Credit A1-12-09-91 in the amount of \$500 for Entrance Permit 89-1632-2215 for Brenda Court

Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign the Deeds, Road Resolutions, and correspondence calling Letters of Credit (to be forwarded if necessary) as presented. Motion carried.

**ST. MARY'S COUNTY ETHICS COMMISSION
(AMENDMENTS TO ORDINANCE AND BY-LAWS)**

Present: John Gatton, Chair. Ethics Commission
Charles Walsh, "
Joe Densford, County Attorney

The referenced individuals appeared before the Commissioners to present proposed amendments to the St. Mary's County Ethics Ordinance and the Commission's bylaws. The amendments include:

Bylaw Amendment

To change the date for the election of chairman and vice-chairman from January to July in order to be consistent with appointments.

Ordinance

To change references to "he" to "he/she" throughout the document.

Section 4 A - To change date of election of chairman and vice-chairman to July.

Section 6 (as well as Schedule C) - To exempt disclosure of a business entity if it is a public held company traded on a national stock exchange.

Mr. Gatton advised that it was the Ethics Commission's recommendation that the Commissioners schedule a public hearing to present the referenced amendments.

After discussion Commissioner Bailey moved, seconded by Commissioner Jarboe, to accept the Ethics Commission's recommendation to schedule a public hearing. Motion carried.

COUNTY COMMISSIONERS' TIME

Light at Intersection of Chancellor's Run Road

Commissioner Thompson reported that on November 8, Election Day, the traffic light was out at the referenced intersection, and she tried to call a number of offices to report it. Because it was a holiday she could not get through; however, the State Police sent someone to Baltimore to get SHA to send a crew to fix the light.

County Administrator Cox stated he would get a report on the matter for next Tuesday.

Supervisors of Elections

Commissioner Loffler requested that the County Administrator draft a letter to the Supervisors of Elections to express the Commissioners' appreciation for their efforts in improving the process and conveyance of election information to the public.

Later in the meeting County Administrator Cox presented correspondence addressed to the Board of Election Supervisors expressing the Commissioners' gratitude on behalf of the voting citizens for a job well done.

The Commissioners agreed to sign and forward the letter.

**DEPARTMENT OF PLANNING AND ZONING
ZONING ORDINANCE AMENDMENTS**

Present. Jon Grimm, Director
Peggy Childs, Recording Secretary.

TM 34, P/O P 318 - Otis Wood Property

As a follow-up to the Commissioners' 10/25/94 discussion, Mr. Grimm submitted his memo dated 11/10/94 addressing the Commissioners' concerns. Mr. Grimm stated he met with Mr. Wood's son, Ray, and discovered that Mr. Wood conveyed to his son approximately one acre containing the mobile home at the rear of the original parcel. The transfer by deed did not have subdivision approval but does establish a boundary which would separate the commercial property from the residential (mobile home). Ray Wood is currently processing a request to properly subdivide the property. The mobile home could continue on the commercial property as a nonconforming use however certain restrictions would apply; e.g., only a 25% expansion of the nonconforming use would ever be allowed, the commercial setbacks would have to be maintained, and it could be difficult to obtain a mortgage to consummate a sale because of the nonconforming status. Staff recommends approval of the downzoning to residential as requested, based on the "mistake" rule, specifically referencing mapping rule "T3."

Mr. Wood said he understands the situation and it has been discussed at some length by the family. Because of the difficulty in selling commercial property on their road, because of possible soil problems associated with the property, and because he would like to put a house there, they have chosen to go ahead with downzoning the acre to residential.

Commissioner Thompson moved to rezone approximately one (1) acre of Mr. Wood's property from Commercial to Residential, per Mr. Grimm's memo of 11/10/94, based on a mistake in the original zoning. Seconded by Mr. Lancaster; motion carried.

TM 43, P 384 - Marv Franzen
TM 34, Blk 1, P 548 - Doug Green

Commissioner Bailey moved to approve the Marv Franzen request to CL subject to approval of site plan and the Doug Green Residential lot to Industrial, as requested.

Commissioner Loffler replied the facts are clear that the Franzen property was never to be zoned commercial but that, if Mr. Franzen could show a proper entrance, he could get CL-0, however the site plan was never submitted. Mr. Franzen is now claiming "mistake" and Mr. Loffler said it is entirely improbable that a rezoning request could go through like this. In addition, the CL category no longer exists because, during the comprehensive rezoning C-1 & C-2 categories were translated into one commercial general category, (C).

Commissioner Bailey amended his motion to rezone the Franzen property to Commercial. Commissioner Jarboe seconded the motion, stating that during the years we may have missed some properties in the rural areas and there was some intention to designate some properties in rural areas as office space.

Commissioner Thompson pointed out the original Franzen request was for Commercial and the Board of County commissioners granted CL, subject to the submission of a development plan to accompany a new rezoning application. None of this has ever been done. She pointed out that there are alternative methods available to Mr. Franzen through the Board of Appeals or through the rezoning process, as the County Attorney has stated.

Regarding the Doug Green rezoning, Commissioners Loffler and Thompson were opposed because it would put an industrial lot on Lawrence Hayden Road, a residential road. Commissioner Loffler pointed out once the lot is rezoned, it can be used for any industrial use.

Commissioner Loffler called for a vote on Commissioner Bailey's motion, which passed 3-2, and both the Franzen and Green rezonings were approved as requested. Commissioners Loffler and Thompson voted against.

Administrative Buffer Variance

Mr. Grimm advised that the proposed administrative variance will reduce processing and staff time by approximately six (6) hours, on average. According to the user fee methodology, which determines DPZ fees at a subsidy rate of 85%, that equates to a \$95 reduction per application, and staff recommends that the regular Board of Appeals filing fee be reduced by that amount, or from \$340 to \$245 for administrative variances.

Commissioners Loffler and Bailey felt that reducing the fee by half would provide a greater incentive for use of the administrative procedure. However, Commissioner Thompson pointed out that the fees are based on the amount of work required by DPZ, so the half-price reduction would be subsidizing the administrative variance to a greater degree.

Commissioner Bailey moved that the fee for the Administrative Buffer Variance procedure be set at 1/2 of the \$340.00 fee for a Board of Appeals variance application, or \$170.00. The motion was seconded by Commissioners Jarboe and passed by unanimous vote.

Commissioner Thompson urged that staff keep track of the time/cost of the administrative variance process. Mr. Grimm stated he would provide a cost analysis during the budget process if there is sufficient administrative variance workload on which to base it.

Staff was directed to prepare the appropriate resolutions and language changes to the Ordinance resulting from today's decisions and come back in one week. Staff recommends November 28, 1994 as the adoption date.

DIRECTOR OF FINANCE

Present: Charles Wade, Director of Finance

1) Homestead Tax Credit

Mr. Wade presented a handout regarding the Homestead Tax Credit, which limits the amount assessments can rise annually. He stated that the Tax Credit is set annually, if the Commissioners wish to change the percentage rate in the range from 0% (100%) to 10% (110%).

Mr. Wade explained the effect of each percentage up to 10% and the loss to the general fund.

After discussion Commissioner Thompson moved, seconded by Commissioner Lancaster, to maintain the current rate of 110%. Motion carried three to two with Commissioners Bailey and Jarboe voting against.

2) Fiscal Year 1996 Budget Instructions

Mr. Wade distributed a memorandum and the Fiscal Year 1996 Budget Instructions for all spending units. He pointed out that the State's spending level is anticipated to be at the same level as Fiscal Year 1995 with the exception of the 5% increase to the Board of Education.

Commissioner Jarboe moved, seconded by Commissioner Bailey, to approve the distribution of the Fiscal Year 1996 Budget Instructions. Motion carried.

3) **Lease/Purchase**

Mr. Wade advised that \$400,000 in interest is scheduled to be used as debt service for the 1995 Bond Issue; however, because of slippage of time in various projects the bond issue will be delayed until February and those funds will not be used. He also stated that \$130,000 had been budgeted for payments on lease/purchase and requested authority to use these funds to make an outright purchase of \$480,000 of equipment, which had been scheduled to be acquired with the lease purchase.

After discussion Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve the use of the referenced funds as requested. Motion carried.

EXECUTIVE SESSION

Commissioner Bailey moved, seconded by Commissioner Jarboe, to meet in Executive Session to discuss a matter of Litigation, as provided in Article 24, Section 4-210(a)8. Motion carried.

Litigation (The Skydiving Center)

Present: Commissioner Carl M. Loffler, Jr., President
Commissioner W. Edward Bailey
Commissioner Robert T. Jarboe
Commissioner John G. Lancaster
Commissioner Barbara R. Thompson
Edward V. Cox, County Administrator
Joseph Densford, County Attorney
Charles Wade, Director of Finance
Dave Seeman, Chair, Airport Commission
Glen Gardiner, "
William D. McGarity (entered - 12:35 p.m.)
Judith A. Spalding, Recording Secretary

Authority: Article 24, Section 4-210(a)8
Time Held: 12:18 p.m. - 1:10 p.m.

Action Taken: The County Attorney informed the Commissioners of recent legal action filed against the County by The Skydiving Center.

ADJOURNMENT

The meeting adjourned at 1:10 p.m.

**Minutes Approved by Board of
County Commissioners on 11/20/94**

Judith A. Spalding
Recording Secretary