

**ST. MARY'S COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**  
**APRIL 18, 1995**

Page 179

Present: Commissioner Barbara R. Thompson, President  
Commissioner D. Christian Brugman  
Commissioner Paul W. Chesser  
Commissioner Frances P. Eagan  
Commissioner Lawrence D. Jarboe  
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 Eagan moved, seconded by Commissioner Chesser, to approve the minutes of Tuesday, April 11, 1995. Motion carried.

**APPROVAL OF BILLS**

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

**COUNTY ADMINISTRATOR ITEMS**

Present: Edward V. Cox, County Administrator

1) **Confirmation of Previous Actions**

The County Administrator advised that because of time constraints, the following actions were taken by a majority of the Commissioners and confirmation is needed by the Board:

**Cooperative Reimbursement Agreement**

State's Attorney's Office - Child support Enforcement Grant Application for Fiscal Year 1996 in the amount of \$127,629.

**Community College Grant Application**

Letter of Endorsement of the collaborative grant proposal between Charles County Community College and the University College to be submitted to the Telecommunications and Information Infrastructure Assistance Program (TIIAP) of the National Telecommunications and Information Administration for AProject Connect, an enhancement of a distance learning network.

**Bicycle Donations to Lions Club Auction**

Memorandum dated April 12 from the Sheriff requesting approval to donate five unclaimed bicycles to the Mechanicsville Lions Club for its April 15 auction.

**Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and confirm the referenced actions. Motion carried.**

2) **Contract of Sale  
St. Mary's Press Building**

The County Administrator reminded the Commissioners that the County has an Option Agreement with Hollywood Enterprises for the purchase of the St. Mary's Press Building and requested the following approvals:

- Acknowledgement of Assignment of Option Agreement from Hollywood Enterprises to Joseph A St. Clair
- Approval of Contract of Sale Agreement between Joseph A. St. Clair and the Board of County Commissioners for the sale of the St. Mary's Press Building to Mr. St. Clair for the purchase price of \$550,000.

County Administrator Cox pointed out that there is a requirement in the Contract of Sale for a Phase I Environmental Survey. If the survey results in an item being found on the property which would make it unusable as intended and it is not able to be cleaned up to make it usable, the contract would be invalidated. Another requirement in the Contract is that the property be zoned to meet the intended purchaser's purpose. Mr. Cox advised that these requirements are being addressed and, therefore, recommended that the Commissioners give approval to the two referenced items.

**After discussion regarding the environmental survey and the zoning issues, Commissioner Eagan moved, seconded by Commissioner Jarboe, to acknowledge the assignment of the Option Agreement to Mr. St. Clair and further to approve the Contract of Sale as presented. Motion carried.**

3) **Budget Amendments**

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

**No. 95-36**  
**Procurement/Administrative Services**

Justification: To provide funding for telephone expenses through fiscal year (\$9,400)

**No. 95-37**  
**Recreation and Parks**

Justification: To transfer funds because of change in account structure for 911 auditing purposes (\$149)

**Commissioner Jarboe moved, seconded by Commissioner Chessner, to approve and authorize Commissioner Thompson to sign the Budget Amendments as presented. Motion carried.**

4) **Response Letters  
Myrtle Point**

The County Administrator presented corresponding responding to letters regarding the Myrtle Point property. The return letters indicate that the Recreation and Parks Board Task Force has presented its report on the site and that the Commissioners will consider the comments as they review and discuss the issue.

**Commissioner Brugman moved, seconded by Commissioner Jarboe, to sign and forward the letters as presented. Motion carried.**

5) **Response Letter (Historic Preservation Commission)  
Myrtle Point**

The County Administrator presented correspondence responding to April 5 correspondence from the Historic Preservation Commission regarding the Myrtle Point property. The return letter expresses appreciation for its offer to assist the County in the review of the property and states that the Commissioners have not yet determined a definite course of action and therefore did not want to have them expend effort in this regard.

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

6) **Grant Applications**

The County Administrator presented the following grant applications for the Commissioners' consideration:

**Regional Park Hall of Fame**

Revised Program Open Space Grant Application for reimbursement funds in the amount of \$142,374.81 for the Hall of Fame building at the Regional Park.

**Regional Child Care Consortium**

Grant proposal for funds from the School-Age Child Care Quality Project on behalf of the Southern Maryland Regional Child Care Consortium in the amount of \$3,750 for technical assistance.

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

7) **St. Clements Island Museum Auction  
Donation of Unclaimed Items**

The County Administrator presented a memorandum dated April 17 from the Sheriff's Department requesting approval to donate bicycles and other unclaimed items for the St. Clements Island Museum Auction to be held Sunday, April 23.

**Commissioner Jarboe moved, seconded by Commissioner Brugman, to approve the donations as requested. Motion carried.**

8) **Appreciation Letters**

The County Administrator presented letters expressing appreciation to the Chairs of boards that presented annual reports.

**Commissioner Brugman moved, seconded by Commissioner Jarboe, to sign and forward the letters as presented. Motion carried.**

9) **Road Naming/Renaming Resolutions**

The County Administrator presented the following Resolutions for the Boards' review and approval:

**No. Z95-03**

**Miscellaneous Roads**

As a follow up to the February 21 public hearing and subsequent discussion, the County Administrator presented a proposed Resolution amending the Official Road Name List incorporating additional road name changes as contained on the list attached to the Resolution.

No. Z95-04  
Renaming of Leonardtown Road

In addition as a follow up to the March 22, 1995 public hearing and subsequent discussion on April 11 for the possible renaming of "Leonardtown Road," the County Administrator presented the referenced Resolution renaming "Leonardtown Road" to **Point Lookout Road**.

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and sign the Resolutions as presented. Motion carried.**

**DEPARTMENT OF PLANNING AND ZONING**  
**SPEC #94-1905 - THOMAS SIMMONS**

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

SPEC #94-1905 - THOMAS SIMMONS

Requesting a ratification of PC declaration, per e10.08 of the Ordinance, that a sheet metal shop contracting business and vehicle equipment/storage lot is a permissible use in the CL zoning district. The property contains 1.00 acre, is zoned Commercial Limited, and is located on the east side of Route 249, approximately one mile north of Happyland Road; Tax Map 57, Parcel 106.

Applicant/Present: Thomas Simmons

Under § 10.08 of the Zoning Ordinance, the Planning Commission may declare a requested use to be allowed in a zoning district, after holding a public hearing and making a finding that the use reflects the nature of uses permitted in the affected zoning district and that there is no appreciable difference in the quality, character, or degree of the requested use compared with listed permitted uses. After holding a public hearing with considerable testimony and debate on 2/13/95, 2/27/95, and 3/27/95, the Planning Commission made such a declaration to allow sheet metal services as a permissible use in the CL zoning district, provided the following performance standards are applied to any such business:

- (7) A minimum "C" Bufferyard Planting is required as a buffer/setback from residential use or district boundary.
- (8) Activities and operations, storage and materials must be contained within a wholly enclosed building, including detached accessory structures.

The Planning Commission's declaration must now be ratified by the Board of County Commissioners and a Zoning Amendment authorized to add the proposed use to the list of permitted uses in the CL district. This is the first such case to come before the Commissioners since the November 1994 zoning amendment which established this procedure.

Commissioner Thompson expressed concern that this process would allow other Commercial Limited uses to expand without going through the constraints of a nonconforming use, adding that CL uses have broader rights but they were not intended to allow expansion and change the area around them. Mr. Grimm replied we are not adding another CL zone, but expanding the list of permissible uses on an existing CL property. Commissioner Jarboe was concerned that the use not include a machine shop. Mr. Grimm replied that the Planning Commission tried to be very specific in limiting this to a service-type use separate from manufacturing and heavy equipment. Mr. Simmons procures pre-fabricated material and forms it to fit job specifications; no heavy equipment is used on site. The additional standards would specifically *not* allow outside storage. The denser "C" Bufferyard standard proposed is a much more restrictive planting, as Commissioner Jarboe noted. It was intentionally imposed on this use for the protection of the community.

One of the first things the Planning Commission investigated was whether the application should be directed to the Board of Appeals; however, there is no provision in the CL zone that allows the Board to make a finding that a proposed use is similar to other uses in the CL and approve it on that basis. The listed CL uses are only those which were identified as nonconforming uses and given zoning status.

Mr. Simmons testified that there is some noise connected with his operation, but they keep all the doors shut if any machinery is being run, and his closest neighbors, who were outside when Mr. Simmons was running his machinery, stated they didn't even know he was doing it. Once you are off Mr. Simmons' one acre site, you cannot hear the operation at all.

Commissioner Chesser's concern was that this will establish a precedent and the fact that the site is in the middle of a growing residential area, and asked, if Mr. Simmons were to sell the property in the future, could a manufacturer move in there? Regarding establishing a precedent, Commissioner Brugman stated you could make the same argument for any use on the list but there are guidelines to take care of that, and all we are doing is adding this as a permitted use. Mr. Grimm stated DPZ would not authorize a manufacturing operation under this declaration and any approval granted for this use in other locations will require the same standards. He stressed that we are not adding manufacturing in the CL zone; if the Commissioners approve this the scope will be limited by the standards, and the impact of this use will probably be less than the service station that is there.

**Commissioner Brugman moved that the Commissioners accept the Planning Commission's declaration and that the proposed use of a sheet metal services business be added to the list of permissible uses allowed in the CL district, subject to the following additional performance standards as recommended by the Planning Commission:**

- (7) A minimum "C" bufferyard planting shall be required as the buffer/setback from residential use or district boundary.**
- (8) Activities and operations, storage and materials must be contained within a wholly enclosed building, including detached accessory structures.**

**The motion was seconded by Commissioner Chesser.**

During discussion, Commissioner Thompson stated she sees the value in having a standard ordinance amendment; it is the process itself that concerns her. Commissioner Chesser reiterated his concern regarding setting a precedent and suggested we look into requiring notification of contiguous property owners as mentioned earlier, which would also satisfy his concern of a possible change of use at a later date.

**Commissioner Thompson called for the vote and the motion for approval passed by unanimous vote.**

#### **DEPARTMENT OF PUBLIC WORKS**

Present: Dan Ichniowski, Director

- 1) Hollywood Shores  
Shore Erosion Control Special Taxing District**

Mr. Ichniowski advised the Commissioners that his office received a petition requesting a special taxing district for the construction of 251.55 feet of stone revetment and 119 feet of timber bulkhead. Bids were opened on April 6 and came in lower than what had been originally estimated. He stated that a public hearing has been tentatively scheduled for May 9 at 7 p.m. and requested the Commissioners concurrence to proceed with the hearing on that date.

The Commissioners gave their concurrence.

2) **Charles County Community College  
Petition for Grant**

Mr. Ichniowski presented a Petition to the Maryland Higher Education Commission for a grant in the amount of \$5,037,632 for the purpose of assisting the financing of the public community college project at St. Mary's.

**Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and sign the Petition for Grant in the amount of \$5,037,632 as presented. Motion carried.**

3) **Utility Corridor (formerly railroad right-of-way)  
Quit Claim Deed - F. Elliott Burch, Jr.**

Mr. Ichniowski presented correspondence dated March 20, 1995 from Southern Maryland Electric regarding the one-acre parcel adjacent to the railroad right-of-way and adjoining the Burch property near the "oaks" in Mechanicsville. The March 20 letter indicated that the property is of no value to SMECO or the County and therefore forwarded a deed quitclaiming the property to F. Elliott Burch, Jr.

The Commissioners agreed to consider the request at a later meeting.

4) **Public Works Agreement  
Maryland Rock**

Mr. Ichniowski presented a Public Works Agreement dated March 17, 1995 between Maryland Rock Industries, Inc. and Board of County Commissioners of St. Mary's County guaranteeing the completion of certain public improvements, including the reconstruction of Abell's Wharf Road and the repaving of a section of Breton Beach Road (Maryland Rock to provide the funds and the County to perform the work)

**Commissioner Chesser moved, seconded by Commissioner Jarboe, to approve and sign the Public Works Agreement as presented. Motion carried.**

5) **Public Hearing  
Clover Dale Acres Court  
Special Taxing District**

The Commissioners conducted a public hearing to receive comments on the petition and ordinance for the establishment of a special taxing district for the construction of Clover Dale Court, from the intersection with Hurry Road to the cul-de-sac, a distance of approximately 725 feet, in Clover Dale Acres Subdivision, located in the Fourth Election District.

Mr. Ichniowski read the notice of public hearing and advised that the hearing was advertised in the April 5 and 12 editions of *The Enterprise* newspaper. He stated that four of the seven property owners signed a petition for the road improvements.

The hearing was opened to the public for comment:

Three of the property owners (Cheryl and Nick Gibson, Tom Cooper, and Sharon Barber) spoke in favor of the district and also requested speed limit signs. Other property owners (Gary and Angel Hill, Tom Roth and Chrystal Adams) expressed concern about the cost to do the improvements and whether it would be affordable. Mr. Hill, who signed the petition, inquired as to the possibility of withdrawing his name. Mr. Ichniowski advised that it would have to be done during the ten-day open record period of the hearing.

Areas of discussion included:

- whether the gravel that was on the road was adequate. (DPW will have testing done to determine the quality of gravel)
- whether the interest rates would change when the county went to the bond market for the project.
- the upfront costs to the homeowners if they chose to have the work done themselves.
- whether the taxing district would create a hardship on some of the property owners.

After discussion the Commissioners requested Mr. Ichniowski to get a determination of the quality and amount of the gravel and agreed to continue the hearing to May 2 at 2:45 p.m.

#### **VIEWING OF NEW SHERIFF'S VEHICLE**

Sheriff Voorhaar displayed for the Commissioners the new white Sheriff's car, which will save the County money over the current two-toned vehicle.

#### **MYRTLE POINT (HANOVER RUN) PROPERTY RECREATION AND PARKS TASK FORCE PRESENTATION**

Present: Phil Rollins, Director, Recreation and Parks  
(R&P Board and Task Force Members)

As a follow up to the March 21 presentation by the Recreation and Parks Board Task Force, Mr. Rollins presented an overview of the task force's report and addressed questions and issues raised during the Commissioners' subsequent discussion regarding the acquisition of Myrtle Point by the County for a nature park.

Mr. Rollins explained the purpose of the Myrtle Point Task Force, which was established by the Recreation and Parks Board to determine if there was a need in the county for parkland/open space. During his presentation Mr. Rollins summarized the task force report and recommendations; addressed the issues and questions that have been raised (status of property, funding, need for park, utilization of Greenwell and other state lands, shore erosion, deep water, and infrastructure). Mr. Rollins also referred to the number of groups and organizations that support the county's acquisition of the property and pointed out that a nature park would be a win/ win situation.

In conclusion Mr. Rollins presented the Recreation and Parks Board's and Task Force's recommendations including boat ride around Myrtle Point, visit to Flag Ponds, conduct a public hearing, retain the services of the Trust for Public Lands, and made acquisition contingent upon clear and free title and upon no county general funds being used.

A copy of the report is on file in the Commissioners' Office.

#### **EXECUTIVE SESSION**

**Commissioner Eagan moved, seconded by Commissioner Chesser, to meet in Executive Sessions to discuss matters of Litigation (the Skydiving Center), as provided for in Article 24, Section 4-210(a)8 and Personnel (employment contracts), as provided in Article 24, Section 4-210(a)1. Motion carried.**

**Litigation - The Skydiving Center**

Present: Commissioner Barbara R. Thompson, President  
Commissioner D. Christian Brugman  
Commissioner Paul W. Chesser  
Commissioner Frances P. Eagan  
Commissioner Lawrence D. Jarboe  
Edward V. Cox, County Administrator  
Joe Densford, County Attorney  
Judith A. Spalding, Recording Secretary

Authority: Article 24, Section 4-210(a)8  
Time Held: 2:45 p.m. - 3:25 p.m.

Action: Mr. Densford briefed the Commissioners on the referenced legal matter and reviewed a draft Resolution as it pertains to the legal issue. The Commissioners agreed to meet in Open Session to take action on the Resolution.

**Personnel - Employment Contracts**

Present: Commissioner Barbara R. Thompson, President  
Commissioner D. Christian Brugman  
Commissioner Paul W. Chesser  
Commissioner Frances P. Eagan  
Commissioner Lawrence D. Jarboe

Authority: Article 24, Section 4-210(a)1  
Time Held: 3:25 p.m. - 5:28 p.m.

Action: The Commissioners reviewed Employment Contracts.

**RESOLUTION NO. 95-16  
ST. MARY'S COUNTY AIRPORT RULES**

Present: Joseph Densford, County Attorney

Mr. Densford advised that the Commissioners adopted Resolution No. 94-19 establishing Rules and Minimum Standards and Resolution No. 95-04 directing the Sheriff to assign law enforcement officers to act as enforcement officers at the St. Mary's County Airport for a period of 90 days. Attorney Densford presented a proposed Resolution amending 95-04 with regard to enforcement officers (using appropriately trained personnel other than law enforcement officers); landing within the drop zone; and an evaluation of the ten-skydiver limit.

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and sign Resolution No. 95-16 as presented. Motion carried.**

**ADJOURNMENT**

The meeting adjourned at 5:45 p.m.

**Minutes Approved by Board of  
County Commissioners on April 25, 1995**  
*Judith A. Spalding*  
**Recording Secretary**