

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
SEPTEMBER 5, 1996**

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
John J. Kachmar, County Administrator
Melanie Johnston, Recorder

CALL TO ORDER

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

CORRESPONDENCE

Commissioner Thompson presented a letter to Joseph Marion Gough regarding Dr. Marek's retirement. **Commissioner Chesser moved, seconded by Commissioner Jarboe, to sign and forward letter as presented. Motion carried.**

EXECUTIVE SESSION

Commissioner Eagan moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss personnel litigation and possible Planning and Zoning litigation following the solid waste work session. Motion carried.

SOLID WASTE WORK SESSION

Present: Daniel F. Ichniowski, P.E., Director, DPW	Melva Abell, Acting Chair, SWAC
George A. Erichsen, P.E., Supervisor of Engineering Services, DPW	Ken Hastings, Member, SWAC
John O. Thompson, Supervisor of County Highways, DPW	Donnie Hammett, Member, SWAC
Amy von Gohren, Recycling Coordinator, DPW	Bill Mattingly, Member, SWAC
Melanie Johnston, Recording Secretary, DPW	Rich Richardson, Member, SWAC

Mr. Ichniowski advised that the State of Maryland Department of the Environment, in conjunction with the EPA, is holding a video conference on full cost accounting for solid waste issues on September 11, 1996. The closest site to St. Mary's is in Columbia. The Recycling Coordinator will attend on behalf of St. Mary's County.

The following items were presented as a follow-up to the August 8, 1996 meeting:

1. A calculation error was made on the previous handout regarding residential solid waste revenues lost at the transfer stations and a revised estimate provided;
2. As a result of Resolution 96-24, the Rules and Regulations have been changed, internal changes have been made at Public Works and the scalehouse to implement the \$35/ton tipping fee and the \$158/ton tire rate;
3. The landfill is not accepting out-of-County waste, in that Public Works believes that the County can regulate what goes into County-owned facilities, but not private facilities. Mr. Ichniowski advised that the cases referred to by the County Attorney dealt with interstate commerce and the ability of a County to legislatively restrict or control the flow of waste, but made no mention of a County's local zoning policy and what restrictions a County can apply in permitting County-owned solid waste facilities. Discussion was deferred pending County Attorney arrival.
4. Following the lowering of the tipping fee, St. Mary's Disposal has returned to using the County landfill.
5. The definition of transfer station as defined in COMAR 26.04.07.03 (30) was given. Staff advised that our "transfer stations are not technically transfer stations as defined in COMAR.

6. Mr. Erichsen advised that the cost for recycling from January to July, 1996 was approximately \$175/ton.
7. Mr. Mattingly noted that County employees could be recycling more office paper and also that citizen education should be increased. Mr. Mattingly asked the Commissioners to promote public education, particularly in the Mechanicsville area.
8. Mr. Erichsen advised that the County has bid the white goods out and will be getting around \$20/ton for the County's white goods, which should bring in around \$20,000 in revenue.
9. Mr. Erichsen stated that the yard waste operations will be done by MES, which will save the County additional money; in addition, the yard waste is used for County projects so there is a savings the County realizes by not having to purchase mulch, along with a savings in landfill space.
10. In order for the County to build its own transfer stations, the following issues need to be addressed: Ownership of the facility, changes to the Solid Waste Plan, State approval, agreements between parties, procurement process, State permitting requirements, Board of Appeals approval, facility design, FAA approval if the transfer station is located at the landfill, the Solid Waste Plan approval process to amend the Solid Waste Plan, sediment control, zoning permits. Commissioner Jarboe suggested the County request a proposal from Calvert County for a regional agreement. Mr. Ichniowski advised that the cost per ton with Calvert County would be \$39.

Mr. Kachmar stated that the County cannot continue to subsidize 16,000 tons of waste per year from the transfer stations.

Mr. Durkin stated that his previous opinion that the Solid Waste Ordinance and Rules and Regulations were unconstitutional is correct in that it applies to any solid waste acceptance facility in the County. In order to make rectify the situation, two things must be done:

1. The County must limit its application to Government-owned facilities;
2. If the County chooses to allow out-of-County waste at County-owned facilities, any fees that are charged must be charged on a uniform basis.

Mr. Durkin recommended that the Ordinance be amended in an expeditious manner, through a public hearing, if it is the desire of the Commissioners to regulate County-owned facilities and not private facilities. Mr. Ichniowski added that he believes that the Conditional Use Approval for the landfill indicated that the facility would be for County trash only.

Commissioner Jarboe moved, seconded by Commissioner Chesser to direct the County Attorney to draft an amendment to the Solid Waste Ordinance that out-of County trash will not be allowed at County-owned facilities. Motion carried. Mr. Durkin advised that he would have that ready in a week and schedule same for public hearing.

Mr. Durkin advised that there are two statutes that can be used as funding source for solid waste; one is user fees and the other is impact fees. Commissioner Jarboe asked if transfer tax can be applied to solid waste. Mr. Durkin advised he would want to look at the statute to verify that it is unrestricted. Mr. Ichniowski asked if impact fees for solid waste on any new buildings can be utilized to retire past debt or only for new facilities. Mr. Durkin advised he would have to look at the legislative history and case law. Mr. Durkin advised that the County could go to the General Assembly and request amending the statute to specifically authorize use to retire the existing debt, however, probably not for the capping of the existing landfill. Mr. Durkin advised that he would prepare the following for Commissioner review: 1) Legislation to amend Article 25, Section 9(G) (Calvert County's impact fee statute) to include St. Mary's County; 2) Legislation to amend Article 25, Section 10(D)(1), to allow impact fees in St. Mary's County to cover prior landfill expenses and capping; (3) Legislation to include St. Mary's County in the recent Carroll County enabling statute.

Discussion ensued regarding what services the County wants to continue to provide to the citizens. Mr. Thompson explained that landfill personnel and equipment are also used for snow removal, storm operations, etc., so if you lose personnel associated with the landfill, those services would have to be

contracted out. Inventory is also run through the scales, which also supports Recreation and Parks and Construction/Inspection.

The Commissioners agreed that they would like to see the following services offered by the County to the citizens:

- Rubble cell;
- Convenience centers (transfer stations);
- Recycling at the convenience centers;
- White good recycling;
- Yard waste;
- Tire recycling;
- Self-haul facility;
- Scale house.

Commissioners requested Public Works to come back in three weeks with an outline of the costs and revenue associated with those items listed above.

There being no further business, the solid waste work session adjourned at 4:15 p.m.

EXECUTIVE SESSIONS

Personnel/Potential Litigation

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
John J. Kachmar, Jr., County Administrator
Doug Durkin, County Attorney
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1 and 8

Time Held: 4:35 p.m. - 6:05 p.m.

Action Taken: The Commissioners continued discussion on the referenced matter; discussed options; and agreed to continue discussion at a later meeting.

Personnel (Department of Planning and Zoning)

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
John J. Kachmar Jr., County Administrator
Doug Durkin, County Attorney (from 4:15 - 4:50 p.m.)
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1

Time Held: 6:05 p.m. - 6:30 p.m.

Action Taken: The Commissioners discussed a personnel issue in the department of planning and zoning.

ADJOURNMENT

The meeting adjourned at 6:30 p.m.

Minutes Approved by Board of
County Commissioners on 9/10/96


Recording Secretary