

**ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS' MEETING  
SEPTEMBER 17, 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  
Mary M. Langley, Recorder

**CALL TO ORDER**

The meeting was called to order at 1:00 p.m.

**APPROVAL OF MINUTES**

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve the minutes of August 13 (Lexington Park Master Plan), September 5 as submitted, and September 10, 1996 as corrected. Motion carried.

**APPROVAL OF BILLS**

Commissioner Jarboe moved, seconded by Commissioner Chesser, to authorize Commissioner President Thompson to sign the Check Register. Motion carried.

**ADDITIONS / DELETIONS TO AGENDA**

Commissioner Eagan moved, seconded by Commissioner Jarboe, to add Public Works Director's Items and County Commissioners' Time to the agenda. Motion carried.

**CONSENT AGENDA**

The Commissioners considered the following documents for approval:

1. **Correspondence**

- a. to Secretary Payne, MD Department of Housing and Community Development, endorsing the tax credit application of BNG Partners for the development of 74 units known as Lexington Park Senior Apartments.
- b. to Secretary Griffin, MD Department of Natural Resources, requesting continued funding of the Aquatic Reef Program.
- c. to Maryland Department of the Environment concerning the application of Roy and Ray Guy to apply sewage sludge to Big Chestnut Road site.
- d. To the Governor's Office of Crime Control and Prevention supporting the grant application of the St. Mary's Women's Center, Inc. for funding under the Violence Against Women Act.

2. **Boards, Committees, Commissions**

- a. Letter of Appointment to Ed Cole, Airport Commission (term to expire 6/30/99/2002).
- b. Letter of appreciation to June Dillard (Commission for Women).

Commissioner Brugman moved, seconded by Commissioner Jarboe, to authorizing the signing of documents in the Consent Agenda with the exception of the letter to DNR Secretary Griffin. Motion carried 4 to 1 (Commissioner Chesser had temporarily left the room).

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to sign the letter to Secretary Griffin with copies to go to Dewitt Myatt and John Foster of DNR.** During discussion Commissioner Chesser noted that there are different qualities of concrete, and road concrete rubble used for the creation of reefs breaks down whereas the quality used for construction of bridges is more stable. **Motion carried 4 to 0 with Commissioner Chesser voting against.**

#### **COUNTY ADMINISTRATOR**

County Administrator John Kachmar presented the following items for the Board's consideration:

1. **Grant Documents**

- a. Grant Agreement with the Maryland Department of Human Resources (DHR) designating Tri-County Community Action Committee, Inc. (TCCACI) as the Emergency Feeding Organization under the Emergency Food Assistance Program.

**Commissioner Eagan moved, seconded by Commissioner Jarboe, to authorize Commissioner President Thompson to sign the grant agreement with DHR designating TCCACI as the Emergency Feeding Organization. Motion carried.**

- b. Modification of Grant Agreement with the Maryland Department of Business and Economic Development (DBED), MICRF Technical Assistance (PKF Consulting - Phase I of Economic Development Plan), to close out the Agreement and allow the processing of final payment.

**Commissioner Eagan moved, seconded by Commissioner Chesser, to authorize Commissioner President Thompson to sign the Modification of Grant Agreement with DBED. Motion carried.**

- c. Grant Application of Walden/Sierra to Governor's Office of Crime Control & Prevention for funding through the Violence Against Women Act (VAWA).

**Commissioner Eagan moved, seconded by Commissioner Chesser, to authorize Commissioner President Thompson to sign the VAWA Grant Application of Walden/Sierra.**

#### **COUNTY ATTORNEY**

Also Present: Steve Welkos, Director of Finance

County Attorney Douglas Durkin presented issues concerning the St. Mary's County Transfer Tax related to collections and exemptions. Reviewing a handout provided, Mr. Durkin explained the chronology related to the enactment of both Maryland's and St. Mary's Transfer Tax legislation. Due to a state amendments to their code after the county's ordinance was adopted, differing definitions of the terms "first-time home buyer" and "owner-occupied" exist pertaining to allowable exemptions. In January or February of 1996 the Clerk of the Circuit Court ceased to apply the ordinance exemption and applied the state exemption which is more liberal; in early September 1996 the Maryland Attorney General advised the Clerk to follow the ordinance until it is amended or the Attorney General finds it invalid. Mr. Welkos estimated a loss of revenue in the range of \$170,000 to \$320,000 during this time based on May 1994 collections. Mr. Durkin advised that an opinion is expected before the end of the month.

**Commissioner Eagan moved, seconded by Commissioner Brugman, to request that the Clerk of the Court provide an accounting of how much money St. Mary's County lost as a result of the Clerk not applying the ordinance as written.** During discussion Commissioner Jarboe indicated that the request should be held off until the Attorney General provides an opinion. **Motion carried 3 to 2 with Commissioners Jarboe and Thompson voting against.**

**DEPARTMENT OF FINANCE**

Steve Welkos, Director of Finance, provided an overview of the Department's organization, current and historical personnel levels, operating budget, responsibilities and functions, selected performance and workload measures, accomplishments for 1995 and 1996, and significant activities currently underway or pending.

The Commissioners thanked Mr. Welkos for his presentation. A copy of the briefing handout provided is on file in the County Commissioners' Office.

**MALLARD CREEK SPECIAL TAXING DISTRICT**

Dan Ichniowski, Director of Public Works, stated that Public Hearing was conducted by the County Commissioners on September 3, 1996 to obtain public comment on the petition and ordinance for the establishment of a Special Taxing District for improving Mallard Creek Court (from Drayden Road to the end), in Valley Lee to acceptable standards for inclusion within the county highway maintenance system. During the 10-day comment period a request from property owners Fred and Sharon Strickland was made for an exemption from the tax. The Commissioners discussed issues relative to the granting of an exemption, including the requirement to conduct another public hearing. Doug Cook, President of the Mallard Creek Homeowners' Association, stated that it was the consensus of the Association, of which the Strickland's are members, to proceed with their petition as presented.

**Commissioner Eagan moved, seconded by Commissioner Jarboe, not to allow the exemption and to move forward with the establishment of a Special Taxing District for Mallard Creek as presented at Public Hearing. Motion carried 3 to 2 with Commissioners Chesser and Brugman voting against.**

**PUBLIC HEARINGS****SUPPLEMENTAL APPROPRIATIONS - FY97**

Staff Present: Steve Welkos, Director of Finance  
Cynthia Brown, Director of Office of Community Services  
Becky Stevens, Office of Community Services  
Joe Donnick, Office of Community Services  
Mary M. Langley, Recorder

Time Held: 3:10 p.m. - 3:12 p.m.

The County Commissioners conducted public hearings on Supplemental Appropriations for the Office of Community Services of St. Mary's County as follows:

1. **Local Interagency Childhood Committee** -- \$3,200 in state grant funds for the purpose of providing support for the Southern Maryland Interagency Children's Committee to plan programs for parent and community education concerning family and children issues, promoting collaboration among family-serving agencies in the county.
2. **Youth Service Corps** -- \$42,500 in federal and private grant funds for the purpose of supporting the Alliance of Alcohol and Drug Abuse Prevention of St. Mary's County to establish the St. Mary's County Youth Service Corps, providing year-round Counselors-in-Training Program for high-risk youth, thereby supplementing the existing Summer of Safety Counselors-in-Training Program.

The hearing was opened for comments from the floor. Hearing nothing from the public, the public hearing was closed. The record will remain open for 10 days during which time written comments will be received, after which a decision will be made.

## **FRIENDS OF OAKLEY SENIOR CENTER**

Present: LaVert Queen, President  
John T. Broderick, Secretary

As a follow-up to last week's meeting, the Commissioners continued discussion of the funding request by the Friends of Oakley Senior Center. Grant funding to cover Office on Aging staff support and rent expenses at the site would end September 30, 1996. It was requested that the County continue to provide rent payments for the Senior Center through FY97 to allow them time to fund-raise as a non-profit corporation. The County Administrator presented a proposal in accordance with the request. Friends of the Oakley Senior Center presented a counter-proposal, requesting the Commissioners fully fund the program, including the staff support position from the Office on Aging.

**Commissioner Eagan moved, seconded by Commissioner Jarboe, to ask the Director of Finance to identify funds to enable the county to fully fund the Center for the balance of FY97. During discussion Commissioner Eagan requested that the Friends of Oakley Senior Center continue to seek incorporation status to raise funds for activities. Motion carried.**

## **PROPOSED 1997 LEGISLATIVE PACKAGE REVIEW**

The Commissioners reviewed the 26 legislative items submitted by county departments, agencies and boards for inclusion in the county's legislative package. It was the consensus of the Board to remove the following items: Environmental Fee, St. Mary's Board of Education (student non-voting member) and Education/School Uniforms. The remaining items will be considered at the public meeting scheduled for September 24, 1996. A copy of the draft packet is on file in the County Commissioners' Office.

## **DEPARTMENT OF PUBLIC WORKS**

Dan Ichniowski, Director of Public Works, presented the following items for the Commissioners' consideration:

1. Mallard Creek -- Deed to accept the road.

**Commissioner Jarboe moved, seconded by Commissioner Chesser to authorize Commissioner President Thompson to sign the deed for the acceptance of the road at Mallard Creek. Motion carried.**

2. Railroad Right-of Way Easement Agreement between St. Mary's County, Southern Maryland Electric Cooperative and Jack L. Bottorf, Nancy J. Bottorf and Virginia J. Williams granting them the use of portion of the railroad right-of-way in the vicinity of Hillville in the 6th Election District

**Commissioner Jarboe moved, seconded by Commissioner Chesser to authorize Commissioner President Thompson to sign the Railroad Right-of-Way Easement Agreement. Motion carried.**

3. Kingston Creek -- Eighth Election District
  - a. Agreement between St. Mary's County and the Department of Natural Resources
  - b. Temporary Dredge Material Placement Site License Agreement and Construction Easement between St. Mary's County and Thomas Brosnan.

**Commissioner Eagan moved, seconded by Commissioner Chesser, to authorize Commissioner President Thompson to sign the agreements presented pertaining to Kingston Creek. Motion carried.**

4. Little Kingston Creek -- Eighth Election District
  - a. Agreement between St. Mary's County and the Department of Natural Resources
  - b. Construction and Maintenance Agreement between St. Mary's County and the Croppers.

**Commissioner Eagan moved, seconded by Commissioner Chesser, to authorize Commissioner President Thompson to sign the agreements presented pertaining to Little Kingston Creek. Motion carried.**

5. Traffic Signal at MD 235 and Hermanville Road -- Cost Sharing Agreement with State Highway Administration. Total cost of the project estimated at \$82,472; county share approximately \$20,618.

**Commissioner Eagan moved, seconded by Commissioner Chesser, to authorize Commissioner President Thompson to sign the Cost Sharing Agreement as presented. Motion carried.**

#### **COUNTY COMMISSIONERS' TIME**

Commissioner Jarboe asked that a letter to the State Highway Administration be prepared requesting that a sign be placed at the section of Route 242 where the paved shoulder ends indicating loose gravel and that a sign be placed on Route 235 identifying the Hollywood Business District on Mervell Dean Road.

#### **EXECUTIVE SESSIONS**

**Commissioner Eagan moved, seconded by Commissioner Chesser, to meet in executive session to discuss a matter of personnel (consideration of appointments to boards, committees and commissions), as provided for in Article 24, Section 4-210(a)1. Motion carried 3 to 2 with Commissioners Jarboe and Brugman voting against.**

**Commissioner Jarboe moved, seconded by Commissioner Brugman, to meet in executive session to discuss matters of personnel and potential litigation, as provided for in Article 24, Section 4-210(a)1 and 8. Motion carried.**

**Commissioner Chesser moved, seconded by Commissioner Eagan, to meet in executive session to discuss property acquisition, as provided for in Article 24, Section 4-210(a)11. Motion carried.**

#### **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  
Douglas S. Durkin, County Attorney  
Mary M. Langley, Recorder

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

Time Held: 5:40 p.m. - 6:45 p.m.

Action Taken: The Commissioners gave direction to staff and agreed to take action in open session.

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The Commissioners' recessed to Wicomico Shores Golf Course Club House for the purpose of conducting a public hearing pertaining to the Wicomico Shores public landing.

7:00 P.M.

(Judith Spalding recorded the minutes from this point.)

#### FOLLOW UP TO EXECUTIVE SESSION

Commissioner Jarboe moved, seconded by Commissioner Chesser, to authorize staff to proceed as discussed in executive session relative to a matter of Potential Litigation. Motion carried.

#### PUBLIC HEARING

#### WICOMICO SHORES - PROPERTY ACQUISITION

Staff Present: Phil Rollins, Director, Recreation and Parks  
Doug Durkin, County Attorney  
Judith Spalding, Recorder

The Commissioners conducted a public hearing on the proposed acquisition at Wicomico Shores, Fourth Election District, property located at the end of Army Navy Drive, consisting of up to 1.7 acres adjacent to the existing public landing, to be used for parking, park expansion, and buffering from residential development. Wicomico, Inc. is the owner of the property.

Mr. Rollins explained the history of the property stating that during a 1995 survey it was learned that the County did not own the property in question which had been paved for a parking lot for the park. He advised that he has had an appraisal of the property done, but could not reveal the appraised value because of negotiations for sale of the property with Wicomico, Inc.

The hearing was opened for comments from the floor:

**Hal Bishop** (Recreation and Parks Board and Wicomico Golf Complex Committee) - Spoke in support of the county acquiring the property.

**Ronald Prettyman** - Questioned how long the property has been used as a parking lot and inquired whether the County could claim adverse possession.

Mr. Rollins explained that the County has had possession of the Wicomico property for nine years, the property in question has been used as a parking lot since 1968, 20 during which it was privately owned. County Attorney Durkin advised that in order to claim adverse possession, the property had to be fenced in and keep the property to the exclusion of all others, which the County does not have.

**Betty James** - Questioned getting to the waterfront without a parking lot stating it was a strategic part of the waterfront.

**William Baker** - Advised that when he bought his property that was no mention of lots being available in the area in question; indicated that he understood that part of the land is in the wetlands and not buildable.

Mr. Rollins responded that according to Planning and Zoning these lots could possibly be buildable.

Commissioner Eagan question whether taxes had ever been paid on the property. Mr. Rollins will get that information.

**David Zeigler** - Questioned how the County owned the rest of the property and whether a title search had been done in order to determine boundaries.

County Attorney Durkin stated he has been tasked with improving the county's real estate practices and has developed sample documents which includes a check list, which will help avoid these problems in the future.

**Donna Montgomery** - Questioned whether Wicomico, Inc. was the same corporation that created the lot problems in the community. (The Commissioners explained that Wicomico, Inc. purchased the property through bankruptcy proceedings and was not the same corporation.)

**Carol Zeigler** - Questioned whether L.K. Farrell was part of Wicomico, Inc. (The Commissioners advised that L.K. Farrell was an officer in the corporation.)

**Doug Ritchie** - Inquired whether this was the first time that the County found out it did not own something it thought it owned; and whether the property was being acquired with the idea of future zoning or at its current zoning.

Mr. Rollins responded that there are other encroachment problems and by way of map depicted other potential problem areas that will need to be addressed. The property will be acquired at its current zoning.

**John Kershaw** - Inquired what the back up plan is if Wicomico, Inc. will not sell the property to the County.

Commissioner Thompson advised that the County is hopeful to be able to negotiate with Wicomico, Inc. Mr. Rollins pointed out that if the County did not acquire the property it would lose about three quarters of its parking lot.

\_\_\_\_\_ - Questioned why the property has turned into a public park and expressed concern about the volume of traffic and lack of security.

Mr. Rollins responded that it was a county-owned park and therefore open to the public. He referred to the caretaker on the property (who is at the property on weekends), who is responsible for security.

**Ed Variz** - Stated that the County needed the three lots in question and that the park would be unusable without them.

**Fred Greslen (?)** - Inquired as to the source of funding to acquire the property.

Mr. Rollins stated that it would come from Program Open Space funds.

**David Zeigler** - Inquired whether the acquisition of these lots would affect the current taxing districts.

Commissioner Eagan stated that the current special taxing district had been established and that it was her understanding that MetComm would not change the assessment.

**Donna Montgomery** - Inquired whether a cost would be added if the County acquires the property; indicated there was a problem with jet skiers possibly endangering children in the water.

Mr. Rollins stated that there should be no additional fee.

**Molly Baker** - Stated that the residents of Wicomico Shore are paying for the water, sewer, and roads and that those outside the community who use the roads should also be charged.

Mr. Rollins stated that the golf course pays for nine equivalent dwelling units and the waterfront pays for one EDU.

County Attorney Durkin pointed out that had this property originally followed the appropriate subdivision process the developer would have paid for the improvements before any lots could have been sold. In order to remedy this situation a special taxing district was established whereby property owners agree to pay for the improvements. The County issues bonds to pay for the work which is reimbursed through the taxing district. Once the roads are deeded to the County, they become public property.

**Ron Prettyman** - Inquired whether the Commissioners would take the wetlands into consideration during the evaluation of the park area.

Mr. Rollins indicated he would research the wetlands issue and stated that the appraisal would take into consideration the designated wetlands on the survey.

**Herb Redmond (D.H. Steffens)** - Stated that his firm surveyed the boundary lines but did not do the designation of wetlands. He further indicated that when Wicomico, Inc. acquired the property it was not aware that it owned the parcels in question. As a county resident and member of Wicomico, Inc., he stated there is a willingness to work with the county in acquiring the property.

**Francis Ferguson** - Expressed disbelief that the property could be acquired without knowing what they were buying.

**Carol Zeigler** - Stated that if Wicomico, Inc. did not know it owned the property, that it should donate the property to the County.

**Helen Morris** - Expressed concern about the water pressure.

The Commissioners explained that this was a MetComm issue and that MetComm will be holding a public hearing on Tuesday, September 24.

**Cynthia Baker** - Inquired whether the roads in Phase I have been completed and expressed concern regarding large pot holes.

#### ADJOURNMENT

The meeting adjourned at 8:55 p.m.

Minutes Approved by Board of  
County Commissioners on 9/24/96

Mary M. Langley  
Recording Secretary

Judith A. Spalding  
Recording Secretary