

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
NOVEMBER 12, 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 Jr., County Administrator
Judith A. Spalding, Recorder

CALL TO ORDER

The meeting was called to order at 11:40 p.m.

EXECUTIVE SESSION

Commissioner Chesser moved, seconded by Commissioner Jarboe, to meet in Executive Session on a matter of Potential Litigation (Transfer Tax), as provided for in Article 24, Section 4-210(a)8. Motion carried.

Potential Litigation (Transfer Tax)

Present Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
Douglas S. Durkin, County Attorney
Judy Pedersen, Public Information Officer
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)8
Time Held: 11:42 a.m. - 1:25 p.m.

Action Taken: The County Attorney reviewed options and the Commissioners agreed to take action in open session later in the meeting.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve the minutes of Tuesday, October 29, 1996, the Planning and Zoning portion of the October 29 meeting(Shannon Farms) and the Special Meeting of Thursday, October 31. 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 approve the Agenda as presented. Motion carried.

CONSENT AGENDA

The Consent Agenda included the following documents:

1. **Correspondence**
 - a. Response to William McCarthy regarding leasing of right-of-way that fronts his property and treating decks as pervious.
 - b. Response to Dick Myers, Animal Welfare League regarding *SMAWL Talk* show on cable television.
 - c. Response to Regional Infrastructure Advisory Committee, Tri-County Council, advising that Commissioners have authorized the economic development staff to conduct the FDR Corridor project analysis in conjunction with the Department of Planning and Zoning.
 - d. (two letters) (1) To Senate Budget Taxation Committee and (2) to House Appropriations Subcommittee on Education and Economic Development expressing appreciation for visiting St. Mary's County during the Southern Maryland Legislative Tour on October 30.
 - e. To Robert Joy, ServiceMaster advising that the Procurement Department has been requested to address this issue.
 - f. To Paul Nimmerichter responding to his proposal to donate two acres for a right-of-way for access road to the St. Mary's County Airport.
 - g. To Patuxent Park Neighborhood CrimeWatch responding to his concerns regarding further division of property on Midway Drive to include two additional apartment units.
2. Draft Invitation to Participants to the Criminal Justice Coalition Meeting to be held December 19.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve the Consent Agenda with the exception of Letter 1g to Patuxent Park Neighborhood Crime-Watch as presented. Motion carried.

Commissioner Eagan requested additional information regarding the letter to Patuxent Park Neighborhood CrimeWatch from the Department of Planning and Zoning and indicated it was her understanding that these were single family homes and that apartments were not allowed.

COUNTY ADMINISTRATOR ITEMS

Present: John J. Kachmar, County Administrator

1. **Budget Amendments**
 - a. **No. 97-17 - County Administrator**
To allocate \$25,000 of the \$400,000 appropriation for office automation needs (for emergency departmental requirements (\$25,000))

Commissioner Eagan moved, seconded by Commissioner Brugman, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 97-17 as presented. Motion carried.

- b. **No. 97-18 - County Administrator**
To provide funds for the printing and insertion of the 1996 Annual Report (\$1,557)

Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 97-18 as presented. Motion carried.

2. Fiscal Year 1997 Supplemental Appropriation Ordinances

As a follow up to the October 29 public hearings on the Fiscal Year 1997 Supplementary Budget, the County Administrator presented Ordinances approving Supplemental Appropriations as follows:

- a. Ordinance No. 96-33
St. Clements Island - \$34,075
- b. Ordinance No. 96-34
Local Law Enforcement Block Grants Program - \$78,858
- c. Ordinance No. 96-35
Church Arson Prevention Grant Program - \$4,600

Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and sign the referenced Ordinances as presented. Motion carried.

3. ZPUD #95A-0584 Shannon Farms PUD Amendment

As a follow up to the October 8, 1996 public hearing and the October 29 discussion, the County Administrator presented the referenced Resolution approving the PUD Amendment subject to conditions as contained in the Resolution.

Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and sign the Resolution approving the PUD Amendment, as presented. Motion carried.

In that the County Attorney had not yet signed the Resolution, Commissioner Eagan moved, seconded by Commissioner Jarboe, to rescind the motion to approve and sign the Resolution until review and signature by the County Attorney. Motion carried.

**4. Memorandum of Understanding
Community College Equipment**

The County Administrator presented a Memorandum of Understanding between the Board of County Commissioners and Charles County Community College transferring ownership of the equipment for the Community College from the Board of County Commissioners to the Charles County Community College.

Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the Memorandum of Understanding as presented. Motion carried.

5. Grant Documents

- a. St. Mary's Public Schools - Grant Awards for FY '97
(Letter to Board of Education approving following grant awards)
 - * Disruptive Youth \$ 3,000 (from State)
 - * Education for Life \$18,000 (Federal)
 - * Technology in Md. Schools \$41,666 (State)
 - * School Nurse Initiative \$48,300 (State)
 - (Revised) \$20,365 (Federal)

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and sign correspondence to the Board of Education approving inclusion of the referenced grants as requested. Motion carried.

**b. Office of Community Services
AIDS Administration Education/Prevention**

Memorandum of Understanding for Grant Extension (extends grant for additional year -\$10,000)

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Memorandum of Understanding as presented. Motion carried.

**6. Metropolitan Commission
Creation of New Positions**

The County Administrator presented a memorandum from the Metropolitan Commission requesting authorization for the reclassification of two existing full-time temporary Construction Inspector positions to permanent full-time positions. This request is in accordance with Chapter 111-3, Section 1.C of the Code of Public Local Laws which requires Commissioners' approval of any new positions.

Commissioner Eagan moved, seconded by Commissioner Chesser to approve the two full-time Construction Inspector positions as requested. Motion carried.

7. Health Insurance Benefits for New Employees

As a follow up to the October 15, 1996 executive session, the County Administrator requested the Commissioners to proceed with implementation of a 90-day delay for health insurance benefits for new employees.

Commissioner Chesser moved, seconded by Commissioner Brugman, to direct staff to proceed with the revision to the Personnel Manual regarding health insurance benefits for new employees. Motion carried.

8. Naming of Health Department Building

The County Administrator advised that the Commissioners need to take formal action to name the Health Department building as the *"The Dr. William J. Marek, M.D., M.P.H., Building."*

Commissioner Chesser moved, seconded by Commissioner Eagan, to formally name the Health Department building as the Dr. William Marek Building. Motion carried.

9. Marcey Halfway House (Budget Shortfall Proposal)

Also Present: Larry Harvey, Director
Sam Baldwin, Chair, Marcey House Board

The County Administrator advised that over the last four years Marcey House has experienced budgetary shortfalls because of reduction of funding by the State. Mr. Harvey explained that the shortfalls have been met through donations from businesses, golf tournament fundraiser, and donations from State's Attorney's Office. He reviewed a handout setting forth the background of Marcey House, summary of the shortfall issue, and objectives and proposal to resolve the shortfall problem.

The proposal is for a county/corrections/treatment collaboration wherein Marcey House would provide one bed and substance abuse treatment to an inmate from the Detention Center. Mr. Harvey indicated that this proposal would help maintain 100% occupancy rate at Marcey House, decrease the cost of housing inmates, provide quality care at a reduced cost, and provide a more structured alternative to the standard work release program. The County is being requested to bear the cost of utility bills for Marcey House (approximately \$11,000 per year); and to bear the cost of one client bed (either work release or non-work release) at a cost of \$38.95 per day per inmate (\$14,373 per year).

After discussion the Commissioners agreed to consider the proposal at a later meeting.

PROCLAMATION YOUTH APPRECIATION WEEK

The Commissioners presented the referenced Proclamation designating the week of November 3- 9, 1996 as *Youth Appreciation Week*.

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director

1. Board of Education Facilities

Mr. Ichniowski distributed a handout setting forth options to provide facilities for the Board of Education and to request direction from the Board. He advised that the current plans includes \$22,000 in the FY '97 Capital Improvement Budget for the design of ADA improvement to the current Bd/Ed building; \$329,500 in the FY '98 budget for construction of the ADA improvements; and construction of a new facility scheduled for design in the FY 2002 CIP. Recently the Board of Education and the County have examined the possibility of renovating and enlarging the recently vacated Hollywood Elementary School for the Board of Education offices at an estimated cost of \$2,471,800.

After review of advantages, disadvantages, and costs, Mr. Ichniowski requested direction from the Board whether to proceed with design of ADA improvements to Building No. 4 at the Governmental Center or design of renovations of the old Hollywood Elementary School.

The Commissioners requested Mr. Ichniowski to return to the Board in two weeks for discussion/decision on the two proposals.

2. Addenda to Public Works Agreements

Stallman Subdivision

In the amount of \$82,500 with First National Bank of St. Mary's

Sycamore Hollow

In the amount of \$38,000 with First National Bank of St. Mary's.

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Addenda as presented. Motion carried 4-0-1 with Commissioner Eagan abstaining because she is on the Board of Directors of First National Bank of St. Mary's.

3. Correspondence Calling Letter of Credit Joseph Mattingly

For Entrance Permit #94-0732 in the amount of \$500 with Cedar Point Federal Credit Union.

Commissioner Chesser moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign the Call Letter as presented. Motion carried.

**4. Acceptance of Deeds/Road Resolution
Bay Ridge Estates, Section 1**

- * Deed accepting Wolfrap Street into the County Highway Maintenance System
- * Deed accepting Bay Ridge Road into the County Highway Maintenance System
- * Road Resolution No. R96-24 designating the following streets as Stop Streets: Bay Ridge Road at its intersection with Md. Route 5; Wolfrap at its intersection with Bay Ridge Road.
- * Road Resolution No. R96-25 posting Bay Ridge Road and Wolfrap Street at 25 miles per hour.

Commissioner Chesser moved, seconded by Commissioner Brugman, to accept the Deed, to approve the Road Resolutions, and to authorize Commissioner Thompson to sign the Deeds and Road Resolutions as presented. Motion carried.

**ST. MARY'S NURSING CENTER
FILM PRESENTATION - PATIENTS' RIGHTS**

Present: Jeffrey Lloyd, Administrator, St. Mary's Nursing Center

Mr. Lloyd appeared before the Commissioners to present a training video entitled "Patients' Rights," which was filmed at the St. Mary's Nursing Center and being distributed nationally by the Department of Health and Human Services.

At the conclusion of the film Mr. Lloyd distributed an Information Release regarding the selection of the St. Mary's Nursing Center for the filming of the video.

**METROPOLITAN COMMISSION
INFRASTRUCTURE BONDS**

Present: Larry Petty, Director, MetComm
Joseph Mitchell, Attorney, MetComm
Douglas Durkin, County Attorney

Commissioner Thompson pointed out that the Board had authorized her to sign the Metropolitan Commission Infrastructure Bond documents for the upgrade of the Pine Hill Run Wastewater Treatment Plant on August 13, 1996 pending review by the County Attorney; however, after the County Attorney's review a number of substantial changes were made to the documents. Therefore, representatives of MetComm appeared before the Board to re-present the documents as amended.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign the Bond documents as presented. Motion carried.

**1997 LEGISLATIVE PACKAGE
COMMISSIONERS' POSITIONS**

The Commissioners took positions on local bills included in the 1997 Legislative Package submitted by county departments and boards.

<u>Item #</u>	<u>Subject</u>	<u>Support</u>	<u>No Support</u>	<u>No Position</u>	<u>Insufficient Information</u>
1	Com College Bd Membership	/////			
2	Bond Bill	/////			
3	Parcel of Record (curative act)	///	/	/	
4	Parcel of Record (Prev of future viol)	///		//	
5	Enforcement of Local Ordinances	///		//	
6	Enabling Leg /Subdv Regs		/	////	
7	Subdv Plat/Site Plan Apprvl	///		//	
8	Road Opening/Closing	////		/	
9	Open Meetings Law (exempt Ethics Com)		//	///	
11	Grant/Project Review (TCC)	//		///	
12	County Agr Program/Tax Credit	//		///	
13	Personal Property Tax	////	/		
14	MetComm (Connec Chrg/upgrade)	//		//	/
15	MetComm (w/s connections)	//		//	/
16	MetComm (benefit assess/upgrade)	//		///	
17	MetComm (benefit assess/common prop)			/////	

Relative to the legislative proposals submitted by the public, Commissioner Chesser indicated he was in support of banning crab traps and gill nets.

COUNTY COMMISSIONERS' TIME

National Electric Code

Commissioner Brugman advised that a letter dated October 23 was received from the Electrical Examiners Board inquiring why the Commissioners had not adopted the National Electric Code. Staff will look into this.

Request for Use of Hollywood Elementary School

Commissioner Brugman referred to a memorandum from the Director of Recreation and Parks requesting the Board of Education for approval to use the land adjacent to the Hollywood Elementary School for construction of ballfields. He stated that he would personally write a letter to the Bd/Ed in support of this request and inquired whether the Board would like to also send a letter. The Commissioners indicated concurrence in sending a letter of support.

TRANSFER TAX

Present: Douglas Durkin, County Attorney

As a follow up to the Executive Session, the County Attorney reviewed the history of the issue stating that the Clerk of the Court had requested an opinion from the Attorney General regarding the validity of the exemption to the County's Transfer Tax enacted in 1990. He stated that the Attorney General has advised that the exemption portion (Paragraph B) of the Transfer Tax Ordinance was invalid and that it is entitled to a presumption of validity and must be enforced until it is repealed or amended after a public hearing or court action. County Attorney Durkin further noted that effective January 1, 1996 the General Assembly added an exemption which authorized the County Commissioners to have an exemption from the County's transfer tax for first time Maryland home buyers.

During his presentation Mr. Durkin reviewed the Commissioners' options:

1. File declaratory judgment action contesting Attorney General's opinion, or accept Attorney General's opinion either with or without admission of law

Commissioner Jarboe moved, seconded by Commissioner Chesser, to accept the Attorney General's opinion without admission of law. Motion carried.

2. Acknowledge the presumption of Ordinance validity until lawfully changed through a legislative process or through the courts, or file collection lawsuits from those who received benefit of exemption.

Commissioner Eagan moved, seconded by Commissioner Brugman, to acknowledge presumption of the Ordinance until lawfully changed by amendment or by a court decision to strike. Motion carried.

3. Await litigation, or amend or repeal exemption portion of the Ordinance

Commissioner Thompson moved, seconded by Commissioner Chesser that the Commissioners go to public hearing to repeal the existing exemption portion of the transfer tax ordinance and proffer at the hearing to replace it with an exemption for first time Maryland home buyers and exempt first \$30,000 from the transfer tax. Motion failed two to three with Commissioners Brugman, Eagan, and Jarboe voting against.

During discussion of the motion Commissioner Eagan stated that it was her impression that the public hearing was to be broader and not so specific and that this would limit options; Commissioner Jarboe questioned the impact on the budget and granting a \$300 exemption to everyone moving into the County. Commissioner Thompson indicated that she believed a specific proposal should be presented at the hearing and the budgetary impact on the specific proposal should be available prior to the hearing.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to take to public hearing: an amendment to repeal existing exemption portion of Transfer Tax Ordinance and to consider all other exemptions that may be authorized by law. Motion carried.

Mr. Durkin further reviewed the four options for exemption:

- * No exemption
- * Exemption for all residential owner occupied property, occupied for seven out of 12 months with exemption up to "\$x" amount of consideration (BOCC has discretion as to amount)
- * First time Maryland home buyers exemption (BOCC has discretion as to amount and calculation method)
- * Both exemptions

4. The Board then discussed what direction should be given to the Clerk of the Court pending repeal and amendment. The County Attorney was instructed to ask the Clerk to follow the ordinance until repealed or stricken by the Court.

The public hearing will be scheduled for December 3, 7 p.m., and action cannot be taken before by the Board until December 17.

Commissioner Eagan moved, seconded by Commissioner Chessser, to direct the County Attorney to write a letter to the Clerk of the Court expressing the Commissioners' desire for her to continue enforcing the current Transfer Tax Ordinance. Motion carried.

SCHEDULING OF TRANSFER TAX PUBLIC HEARING

The Commissioners agreed to schedule a public hearing on Tuesday, December 3, 1996, 7 p.m., Carter State Office Building. In that it is Public Forum night, the Commissioners indicated that the Public Forum will only be held if time allows after the public hearing.

EXECUTIVE SESSIONS

Commissioner Chessser moved, seconded by Commissioner Brugman, to meet in Executive Session to discuss matters of Personnel (Personnel (4), Office on Aging), as provided for in Article 24, Section 4-210(a)1. Motion carried.

Personnel (Employment Contracts)

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

Authority: Article 24, Section 4-210(a)1
Time Held: 4:45 p.m. - 4:50 p.m.

Action Taken: The County Administrator advised the Commissioners of two contracts and that he would be returning to the Board with recommendations.

Personnel

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

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

Time Held: 4:50 p.m. - 5:00 p.m.

Action Taken: The County Attorney discussed a personnel issue and he and the County Administrator will return at a later meeting with a recommendation.

Personnel (Board Membership)

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 Durkin County Attorney
Judith A. Spalding, Recorder

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

Time Held: 5:00 p.m. - 5:10 p.m.

Action Taken: The County Attorney discussed a personnel matter and explained the action that had been taken.

Personnel (Office on Aging)

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
Judith A. Spalding, Recorder

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

Time Held: 5:10 p.m. - 5:20 p.m.

Action Taken: The County Commissioners reviewed a personnel matter and agreed to take action in open session at next week's meeting.

Personnel (County Administrator)

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
Judith A. Spalding, Recorder

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

Time Held: 5:20 p.m. - 5:30 p.m.

Action Taken: The Commissioners discussed the process for conducting the County Administrator's six-month evaluation.

ADJOURNMENT

The meeting adjourned at 5:30 p.m.

**Minutes Approved by Board of
County Commissioners on 11/19/96**

Judith A. Spalding
Recording Secretary