

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
FEBRUARY 18, 1997**

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 1:05 p.m.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve the minutes of Tuesday, February 11, 1997 as presented. Motion carried.

APPROVAL OF BILLS

Commissioner Jarboe moved, seconded by Commissioner Chesser, to authorize payment of the bills. Motion carried.

ADDITIONS/DELETIONS TO AGENDA

Commissioner Thompson advised that the Airpark Sales and Services Lease Application has been deleted from the agenda.

Commissioner Jarboe moved, seconded by Commissioner Eagan, to accept the Agenda as amended. Motion carried.

CONSENT AGENDA

The Consent Agenda included the following:

Correspondence

- a. To Acting Chief, Maryland Department of Environment stating that the county will not exercise right to request a public information meeting/hearing relative to the application of Wilma Jane Trossbach for site located on Trossbach Road.
- b. To Manager of Plan and Project Review, Maryland Office of Planning, concerning the application of MD DNR to convey 5.43 acres of land in Charles County for use as the Southern Maryland Criminal Justice Academy.
- c. Mr. Merle Vothoffer concerning the disturbance of property that attended the extension of water along Millstone Landing Road.
- d. To Vernon Gray concerning suggestion regarding a Year-Round School Education Program in St. Mary's County.
- e. To Senator Dyson supporting Senate Bill 488, Commemorative Plates for Supporters of Dog and Cat Sterilization.
- f. To various addressees regarding the Agriculture Land Tax Credit proposal.

Commissioner Jarboe moved, seconded by Commissioner Eagan, to accept the Consent Agenda with the exception of the letter to Mr. Gray (d). Motion carried.

Commissioner Jarboe requested that the letter to Mr. Gray be revised to address his concerns that the County should look into a multi-track school year calendar.

COUNTY ADMINISTRATOR ITEMS

Present: John Kachmar Jr., County Administrator

1. Boards, Committees, Commissions

a. Letter of Appointment

Commissioner Brugman moved, seconded by Commissioner Jarboe, sign the letter appointing Joie Brunger to the Human Relations Commission. Motion carried.

b. Letter of Appreciation

Commissioner Jarboe moved, seconded by Commissioner Chesser, to sign the letter of appreciation to Laraine Tyska for her service on the Human Relations Commission. Motion carried.

2. Board of Education

Request for Inclusion of Grant Award in FY 97 Budget

Correspondence to BOE granting approval to include grant awards of \$263,211 for the School Performance Recognition Awards and \$10,000 for Consolidated Pupil Services.

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

5. Ordinance

Inmate Fee for Weekender

Also Present: Stephen Norman, Assistant County Attorney

Mr. Norman appeared before the Commissioners to present a draft ordinance setting a \$20 fee for weekend prisoners for the cost of their incarceration in accordance with Article 27, §645GG of the Maryland Annotated Code. The Ordinance has a provision indicating that the \$20 a day fee may be waived upon a proper showing of indigency.

During discussion the Commissioners requested that the Ordinance be amended to set the fee at 50% of actual costs and to replace "income level of the 'Weekend Prisoner' is below 100% of the 1996 Federal Poverty Income Guidelines" with ". . . of the *most current* Federal Poverty Income Guidelines."

After discussion Commissioner Eagan moved, seconded by Commissioner Jarboe, to proceed with a public hearing on the proposed Ordinance for Inmate Fee For Weekender with the changes as indicated. Motion carried four to one with Commissioner Chesser voting against.

6 . Grant Agreements

a. 12-month Rental Allowance Program Agreement with MD Dept. of Housing and Community Development. (St. Mary's County Housing Authority).

Commissioner Chesser moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign the Rental Allowance Program Agreement as presented. Motion carried.

- b. Grant Application to the Governor's Office of Crime Control & Prevention for funding under the Juvenile Justice program. Continuation of existing grant. (Office of Community Services)

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Rental Allowance Program Agreement as presented. Motion carried.

7. Community College Legislative Proposal

In preparation for this evening's public hearing on the referenced Community College Legislative Proposal, the County Administrator presented a handout prepared by the County Attorney setting forth the key elements of changes to the structure of the Charles County Community and relevant existing Maryland law.

NAVAL AIR STATION PATUXENT RIVER UPDATE

Present: Capt. Elmer Standridge, Commanding Officer, NAS
Timothy Smith, Executive Director, NAS

Capt. Standridge and Mr. Smith appeared before the Commissioners to provide an update relative to activities at Patuxent River Naval Air Station. Capt. Standridge reported on the following:

BRAC Move Status

- * Warminster move is underway.
- * New NavAir building will be accepted from the contract this week and will take three months to outfit it.
- * Crystal City move is scheduled to begin in late April.
- * Other construction projects include the Propulsion Laboratory and Anechoic Chamber.

Base Transportation

- * Because of low use the shuttle service to the Base has been terminated; however, with the NavAir expansion, the shuttle service may be reinstated in June.

Air Expo

- * Air Expo is scheduled for May 24 with the Blue Angels as the main event. There will be more community involvement this year (over 30 non-profit organizations will participate in running the concessions).

Proposed Ticket Master

- * NAS has been working on an agreement to have Ticket Master at a site off NAS that will be accessible to the community.

Parking Lot Site at Frank Knox

- * Parking Lot is always full and there are plans underway to expand it.

Proposed Ship Berthing Status

- * There has been misinformation regarding this proposal; Patuxent River is one of several sites under consideration.

- * The need for berthing the ships was due to closures of some ship yards. There are some ships currently at James River, but these ships are too large to fit under the James River Bridge.
- * There has never been discussion of blocking the channel; the kinds of paint used on the ships will not have a negative impact.
- * Capt. Standridge has been assured that there was not any real issue of environmental concerns, and he would not support the project if there were environmental impacts.
- * There will be opportunities for public comment--public will be involved in the environmental impact study, and once the study is completed, there will be a public comment period.

Other areas of discussion included the Route 235 widening project and ways to relieve congestion prior to completion of the project.

REGIONAL STRATEGY PROPOSAL

Present: Gary Hodge, Director, Tri-County Council
William R. Dodge, Consultant

Messrs. Hodge and Dodge appeared before the Commissioners to present a draft of the Proposed Design for Developing a Regional Strategy for Southern Maryland and to get the Commissioners' input in the preparation of the scope of work. Mr. Hodge gave the background on regional planning activities and the cooperation needed for regional issues; described the purpose of the regional strategy; agencies which will be partners in the project; and overview of the planning process.

Other elements of the strategic plan discussed included:

- * That TCC has requested the Regional Infrastructure Advisory Committee to serve as the organizing committee for the regional strategic planning (RSP) process;
- * That the organization of the RSP process will include: a steering committee, technical committee, public involvement committee, a stakeholders committee; task forces to address priority challenges identified in the RSP process (growth, economic development, education, telecommunications, etc.);
- * That the strategic plan will not be official until elected officials have acted on it as a member of TCC;
- * Composition of the steering committee (that elected officials be on the steering committee);
- * Local issues versus regional issues

In conclusion Mr. Hodge advised that the draft will be "cleaned up" for presentation at the March 5 Council meeting, after which appointment of the steering committee will begin.

PUBLIC HEARING CRITICAL AREA GROWTH ALLOCATIONS

All Commissioners were present. DPZ staff present were Jon Grimm, Director; Keith Lackie, Environmental Planner; and Peggy Childs, Recording Secretary.

GROWTH ALLOCATION PUBLIC HEARINGS

Growth Allocation is an allowance by the State, on paper, of 1600+ acres of Critical Area property. Under this process, applications in the Critical Area which meet *specific criteria* may be "upzoned" for development and the acreage "drawn down" each year from the 1600+ acres, until it is used up. Applications must be evaluated and scored by the Planning Commission, approved by the Board of County Commissioners and then forwarded to the State Critical Area Commission to sanction or reject the allocation award. There are 3 categories: Single-Lot, Minor Subdivision and Design Competition. This year we have only two applications; i.e., one Single-Lot Subdivision and one Design Competition request.

SSUB #96-1976 - JAMES M. LACEY (Single-Lot Category)

Requesting growth allocation award of 1.5 acres for single-lot subdivision, zoned RPD (RCA Overlay), located on Ellis Road, north of Maycroft Road in Oakley; Tax Map 39, Block 9, Parcel 251.

Owner/Present: James M. Lacey

Agent/Present: Bill Higgs, of Little Silences Rest, Inc.

Legal Ad published in The Enterprise on 1/29/97 & 2/5/97

#A-1 - Certified Receipts of notification to contiguous property owners

Mr. Grimm verified that the property was posted by staff on 2/5/97.

One of the reasons for this request is to correct an illegal parcel division. The application has been reviewed by the TEC and the Planning Commission, who recommends approval, conditioned upon the six-acre "minimum tract size" requirement being removed from the Critical Area Ordinance as part of the four year review process.

Commissioner Thompson asked the rationale for the 6-acre requirement wondering, if that is removed, what will prevent 1600 people from coming in with single-lot growth allocation requests? Mr. Grimm replied the intention in 1990 was to give back some of the "pound of flesh" extracted by the Critical Area legislation by allowing individual property owners the single-lot right, but staff does not know why 6 acres became the threshold. It is not contained in the State statute, which is why staff thought it might not be necessary; but that is the Commissioners' decision. Only 20% of the average annual growth allocation available may be awarded to single-lot subdivisions.

Mr. Higgs advised that, at the time the parcel was deeded in 1981 it met all the requirements; the Critical Area regulations were not in existence. At that time there was no formal review process; a plat was approved by Planning & Zoning and was recorded. In this case, the survey plat was done but was never approved by Planning & Zoning.

The property is located at the end of Ellis Road and fronts on Cedar Point Creek. It is improved with a septic system installed by Mr. Lacey in 1988, and by a pier he constructed on the property in 1989. Mr. Lacey has maintained the property all these years with the intention of building a house on it. When he found out that the property didn't meet the parcel of record definition, Mr. Higgs said, they went back to the original grantor of the property requesting additional property to meet the 1 in 20 density, but there was no interest at all in helping to resolve the situation. Growth allocation remains the only alternative but the application cannot meet the Ordinance requirements unless the 6-acre minimum provision is removed.

Mr. Grimm entered into the record a letter received by DPZ from Cecile Bolling von Goetz, the original grantor of the parcel.

The Chair opened the hearing to public comment.

Cecile Bolling von Goetz told the Commissioners that the gift she intended to make to Mr. Lacey was a horrible mistake, and that what concerns her now is that, if the lot is allowed to be built upon, it will add another dwelling to an already densely populated, small parcel of land right on the water, within the Critical Area. In addition, her efforts to retrieve the access road, which she said was illegally acquired by the County many years ago, will be impaired. Ms. von Goetz stated she was advised by Attorney Weiner and the then Governor Mandel to have a deed of reconveyance prepared to have the road returned to her, but it was ignored by the then Board of County Commissioners.

Ms. von Goetz stated she is struggling to hold onto the last 95 acres of a 16,500 acre land grant known as St. Clements Manor, and her financial situation has gotten so terrible she has even attempted to sell a lot off of that. Ms. von Goetz' mother gave Mr. Lacey's grandparents a life estate on her property in return for 40 years of the grandfather's working the farm, and Ms. von Goetz said she deeded this lot to Mr. Lacey because she wanted someone to be there on the farm; however, she thought Mr. Lacey would take his grandmother to live with him and the grandmother's life estate would revert to the farm. In that event she could have rented it out and paid off her mortgage - Mr. Lacey has been saving rent by living on the farm with his grandparents for 25 years. However, she did deed the lot to Mr. Lacey.

Mr. Lacey also spoke, for the record, stating he received the lot in 1981 and thought everything was done properly; that he was on good terms with Ms. von Goetz at that time.

The Chair closed the Lacey public hearing at 3:36 p.m. The record will remain open for 10 days for written comment, following which the application will be brought back in two weeks for a decision.

SSUB #96-0540 GARDINER'S PLACE (Design Competition Category)

Requesting growth allocation of 17.77 acres for this 11-lot subdivision, containing 58.61 acres, zoned RPD (RCA Overlay), located at the northeast corner of the Millstone Landing Road/Green Holly Road intersection in the 8th Election District; Tax Map 35, Block 21, Parcel 42.

Owners: Ann Kaplan & Zoe L. Smith
Present: Ms. Ann Kaplan
Attorney Jim Kenney, representing the applicants
Herb Redmond & Alicia Borsi, of DH Steffens Co., Agent

Legal Ad published in The Enterprise on 1/29/97 & 2/5/97.
#A-1 - Certified Receipts of notification to contiguous property owners.

Mr. Grimm advised that, since the Commission's review of this project, the applicant has worked with DNR staff and DPZ to design a road alignment and clearing pattern for a more sensitive plan. The development has been reduced and moved back, but the growth allocation request has been increased to 17.74 acres. Up to 60% of the annual growth allocation may be awarded in this design competition category.

Mr. Redmond advised that the property is owned by two sisters, Ms. Kaplan and Ms. Smith, as part of an estate, it having been in their family for more than 60 years. He offered a 1957 photo of the property as it existed at that time. The property is 100% wooded and lies along the Patuxent River between Esperanza Creek and Hominy Creek, formerly a private creek but now considered by the State as tidal wetlands. The sisters hold title to half of Hominy Creek, or 6.44 acres; their property line runs right down the middle. The property contains 58.61 acres of fastland and two very small portions of land outside of the Critical Area; the rear property along the River will be kept by the sisters, who will two homes on it for themselves, with the 20-acre Critical Area set-asides. Buffers have been provided from both Esperanza and Hominy Creeks. There is no public sewer but public water is across the street and will serve the subdivision.

Alicia Borsi, Environmental Planner for the D. H. Steffens Company, reported on the environmental features of the site, which includes a Forest Interior Dwelling Species bird habitat, as designated by DNR, to provide protection from cowbirds and other predators.

Under the new plan, the lots have been reduced and the stormwater management ponds have been removed; instead, innovative practices will be used to contain runoff at the drainage site. The private 20 ft. right-of-way will continue to the rear of the property. Some of the major changes are: (1) Lanyon Lane has been shortened by 100 ft. (2) The two Critical Area lots retained by the sisters have been reduced from 50+ acres to 40+ acres and the lots compressed to minimize intrusion on the point of land; Ms. Kaplan's new house on Lot 7 will use the same half-acre area which contained the original house; the existing driveway in the 100 ft. Buffer will not be used. (4) Limits of clearing have been reduced to below 20%. (5) A 50 ft. forested buffer has been established on all drainage ways. (6) The Critical Area Buffer has been expanded to 125 ft. in all areas except where the existing house stood and along the Patuxent River and Hominy Creek, where it is 100 ft. (7) The development envelope lots have been decreased in size and reperced to allow a 300 ft. buffer from tidal influence; providing the 300 ft. buffers also helps minimize the impact on the FIDS habitat. (8) A 3-6 ft. pathway has been provided to allow community access to the water. (9) The sensitive environmental features within the development pod have been placed in designated open space areas. (10) The design envelope is 18.04 acres, with 17.77 acres of growth allocation request for "LDA." (11) 84% of the development pod is being retained in trees.

Any trees removed in excess of 20% must be replaced at a ratio of 1 tree for every 3 removed. Mitigation for clearing on the lots will be the responsibility of the purchaser. Slopes on the peripheral lots are within the guidelines of local ordinances and State regulations. The proposed development will be located within 5 minutes of the Naval Air Station. Average lot size is .82 acre and the smallest lot is .62 acre, which will accommodate the 40' X 70' homes intended. Public water will be provided.

Mr. Grimm noted for the record that the changes were done in concert with the Planning Commission's recommendation, and at their meeting of February 10, 1997, the Commission endorsed the revised plan as being consistent with their project recommendation.

The Chair closed the Gardiner's Place public hearing at 4:22. The record will remain open for 10 days to receive written comment. Staff will bring back in two weeks for the Commissioners' decision.

ROAD NAME CHANGES

Present: Jeff Jackman, Planner, DPZ

As a follow up to the February 4 public hearing on road name changes, the Board of County Commissioners took the following actions:

Deadbeat Alley (Request to change to Kinders Lane)
(Petition signed by three out of the four property owners)

Commissioner Brugman moved, seconded by Commissioner Chessier, to approve the change of Deadbeat Alley to Kinders Lane. Motion carried.

Hicks Drive (Request to change to Holly Oaks Drive)
(Petition signed by four out of seven property owners)

Areas of discussion included: the unfortunate division of the people in the neighborhood over the road naming, and the fact that some of the property owners had changed their documents to Hicks Drive (based on the decision from the previous public hearing).

After discussion Commissioner Brugman moved, seconded by Commissioner Chesser, that the name of Hicks Drive remain as Hicks Drive. Motion carried 4-0-1 with Commissioner Jarboe abstaining stating that he had not attended the first hearing.

COUNTY COMMISSIONERS' TIME

Road Naming Process

Commissioner Brugman expressed concern that with the policy of scheduling road name changes every other month, that the issue of renaming Hicks Drive to Holly Oaks Drive may be coming back before them repeatedly. He suggested that perhaps a limitation be placed on the number of times a request can be heard and requested that the County Attorney advise the Board on how to handle the situation. The Commissioners recommended that the matter be included during the upcoming Zoning Ordinance update.

Smart Growth Legislation

As a follow up to last week's discussion Commissioner Brugman advised that MACo postponed taking a formal position on the Smart Growth Legislation from last week to this week.

EXECUTIVE SESSION

Commissioner Brugman moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss a matter of Personnel (Sick Leave Bank Request), as provided for in Article 24, Section 4-210(a)1. Motion carried.

Personnel - Sick Leave Bank Request

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
George Foster, Personnel Officer
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1
Time Held: 4:50 p.m. - 5:02 p.m.

Action Taken: The Commissioners discussed a sick leave bank request and agreed to take action in open session.

FOLLOW UP TO EXECUTIVE SESSION (PERSONNEL)

Commissioner Jarboe moved, seconded by Commissioner Chesser, to direct the County Administrator and Personnel Officer to work within the policies of the Personnel Manual to provide sick and annual leave for a county employee. Motion carried.

PUBLIC MEETING

HUMAN RELATIONS COMMISSION LEGISLATIVE PROPOSAL

Present: Douglas S. Durkin, County Attorney
Valentine Ojo, Chair, Human Relations Commission
Arthur Casale
William May

The Commissioners conducted a public meeting on proposed legislation authorizing the Board of County Commissioners to establish the St. Mary's County Human Relations Commission, said legislation reinstating the original provisions established in 1963. Mr. Durkin reviewed the "unofficial copy" of the proposed bill, which included the purpose and functions of the Human Relations Commission (providing advice and assistance related to the filing of grievances and complaints of discrimination; educating the community to the rights and responsibilities of individuals in housing, employment and public accommodations; advocating the removal of all vestiges of discrimination; and assisting in nonbinding alternative dispute resolution). Section 47 of the bill includes provisions for conducting certain areas of the HRC's meetings in closed session and for the confidentiality of records.

Commissioner Jarboe indicated that he did not support the proposed legislation stating he was opposed to the provision that indicates that it supersedes the Open Meetings Act and Public Information Act; that it was a subversion of the Open Meetings Act; that it increased the county's liability; and that a County HRC would be redundant because there is a State Human Relations Commission at the Carter State Office Building.

After opening the meeting for comments from the audience, the public meeting was closed.

EXECUTIVE SESSIONS

Commissioner Chesser moved, seconded by Commissioner Eagan, to meet in Executive Session to discuss a matter of Litigation (Parcel of Record), as provided for in Article 24, Section 4-210(a)8. Motion carried four to one with Commissioner Jarboe voting against.

Commissioner Chesser moved, seconded by Commissioner Thompson, to meet in Executive Session to discuss a matter of Property Acquisition, as provided for in Article 24, Section 4-210(a)11. Motion failed one to four with Commissioners Thompson, Brugman, Eagan and Jarboe voting against.

Litigation (Parcel of Record)

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
 Jon R. Grimm, Director, DPZ (attended from 6:30 - 6:40 p.m.)
 Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)11

Time Held: 6:10 p.m. - 7:05 p.m.

Action Taken: The Commissioners continued discussion regarding the Parcel of Record litigation and to take action in open session.

FOLLOW UP TO EXECUTIVE SESSION

Commissioner Brugman moved, seconded by Commissioner Chesser, to direct staff to proceed with legislation to resolve the parcel of record problems for the citizens of St. Mary's County. Motion carried four to one with Commissioner Jarboe voting against.

**PUBLIC HEARING
COMMUNITY COLLEGE LEGISLATIVE PROPOSAL**

Present: John J. Kachmar Jr., County Administrator
Douglas Durkin, County Attorney

The Board of County Commissioners conducted a public hearing on the proposed legislation for the restructuring of the Charles County Community College. The proposal includes a change in membership of the Community College Board of Trustees to include representation from St. Mary's County and Calvert County; a change in the financing formula; and a provision for equal cost sharing of administrative costs.

Commissioner Thompson read the notice of public hearing, which was published in the February 5 and 12, 1997 editions of The Enterprise.

After comments from the Commissioners, the public hearing was opened for comments from the audience.

(Comments in support of the legislative proposal were from: Board for the Community College Members: Tom Mattingly, Chair, Elizabeth Dufresne, Gay Scott Boecker); Charles County Community College Board of Trustees Members (Dianne McWilliams, Chair, Michael Besche, and Bob Healy); Community College Representatives (Dean Elaine Ryan, Jo Williams, Dean of Science and Continuing Education); Beverly Russell, SGA Representative, St. Mary's Campus; Abell Longmore; Fred Wallace; Coleman Hillman, CCC student; Howard Mattingly; and F. Elliott Burch, Jr.)

Areas of discussion included:

- * the three versions of the proposed legislation, none of which have yet been introduced to the General Assembly (original version submitted by Delegate Slade; revised version from Delegate Wood; and a counterproposal from Calvert County Commissioners);
- * reversion of the property when it ceased to be a community college;
- * financial impact of proposal on each county;
- * whether all three counties needed to participate in order for the proposal to go forward;
- * timing of presentation of the proposal to Calvert and Charles Counties;
- * impact of waiting a year to introduce the legislation as opposed to introducing it this year (budgetary issues);
- * advantages of making the community college a regional community college (including positive economic impact; representation on the Board from Calvert and St. Mary's);
- * impact on county's bond issue if it becomes a regional college;
- * review of statutes relative to educational institutions and the fact that the current arrangement does not follow any of the four statutory schemes, but exists by contract;
- * deadline for filing of legislation with General Assembly;
- * concerns that the Board of Trustees, a non-elected board, can "purchase, lease, condemn or otherwise acquire property it considers necessary for the operation of the college;"

- * that the board membership be based on student population: county with highest student population would have four members; second highest would have three and the third highest would have two (Ms. McWilliams indicated that the Board of Trustees would discuss this proposal and respond to the Commissioners tomorrow morning (February 19).

After discussion Ms. McWilliams suggested that the Commissioners make a list of their concerns and meet with the Board of Trustees. The Board of County Commissioners agreed to meet on Thursday, February 20 at 3 p.m. (after the 1 p.m. Criminal Justice Coalition Meeting).

ADJOURNMENT

The meeting adjourned at 9:55 p.m.

**Minutes Approved by Board of
County Commissioners on 2/25/97 &
3/4/97**

Judith A. Spalding
Judith A. Spalding
Recording Secretary

