

**ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS' MEETING  
APRIL 29, 1997**

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

(Commissioner Chesser was not present due to illness.)

**OFFICE ON AGING - OLDER AMERICANS MONTH CELEBRATION  
"LUNCH WITH THE COMMISSIONERS"  
PRESENTATION OF PROCLAMATION**

The Commissioners attended the "Older Americans Month Celebration at the Office on Aging Chancellors Run Senior Center.

(Commissioner Brugman was not present at the beginning of the meeting.)

**CALL TO ORDER**

The meeting was called to order at 2:15 p.m.

**APPROVAL OF MINUTES**

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve the minutes of Tuesday, April 22, 1997, as corrected. Motion carried.**

**APPROVAL OF BILLS**

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

**ADDITIONS/DELETIONS TO AGENDA**

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve the Agenda as amended (to add the public hearing on CWSP #96-2300 - Bay Forest, Section 1; and to delete the Office on Aging grants, which will be presented during County Administrator time). Motion carried.**

**CONSENT AGENDA**

The Consent Agenda included the following:

**1. Correspondence**

- a. To citizens in response to correspondence regarding the school redistricting proposal.
- b. To Rosemary Tuiman responding to concerns regarding cable television.
- c. To Petitioners regarding plans for Myrtle Point.
- d. To Governor's Office of Crime Control and Prevention regarding application for HotSpot Initiative Funding.
- e. To Chair, Board for Community College at St. Mary's expressing appreciation for presentation of annual report.
- f. To Brandon Gardner responding to suggestion for improving highway safety at the intersection of Old Route 5 and Mechanicsville Chaptico Road.
- g. To Maryland Office of Planning forwarding the County's comments on State Clearinghouse Application #MD970409-0307 - Southern Maryland Tri-County Community Action Committee, Inc. Housing Preservation Grant.

- h. To Neal Cooper expressing congratulations on the occasion of his Eagle Scout rank award.
- I. To Director, Department of Planning and Zoning requesting that the landfill fee be waived for the disposal of old computer shells and unusable parts by SMARTCO.
- j. To Planning Commission amending March 11 letter regarding master plan for development of recreational park at Myrtle Point.

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve the Consent Agenda with the exception of letters (c) and (j), as presented. Motion carried.**

(Letter c: Commissioner Jarboe requested that the letter be revised to reflect the list of priorities as contained in the Potomac River Association's letter.)

(Letter j: Prior to the meeting, Commissioner Brugman had requested that the letter be pulled as a result of comments made at the April 28 Planning Commission meeting.)

### COUNTY ADMINISTRATOR ITEMS

Present: John J. Kachmar Jr., County Administrator

#### 1. Budget Amendments

- a. No. 97-47 - Information Systems Office  
(Funds needed to cover projected expenses through June 30, 1997 - \$7,850)

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 97-47 as presented. Motion carried.**

- b. No. 97-48 - Public Works  
(Surface Treatment due to oil price increase and additional road damage caused by wet weather - \$87,941)

The Commissioners deferred a decision on the budget amendment and requested that the Director of Public Works appear before the Board to provide an explanation.

- c. No. 97-49 - Planning and Zoning  
(Purchase of Code books (because of adoption of new code) - \$2,126)

**Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 97-49 as presented. Motion carried.**

- d. No. 97-50 - Economic Development  
(To fund cost for an appraisal report for county-owned property at intersection of Rt. 235 and Hermanville Road for the purpose of future development of that site - \$1,000)

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 97-50 as presented. Motion carried.**

#### 2. Grant Documents

- a. Marcey House ( FY '98 Budget Request to Alcohol/Drug Abuse Administration - \$153,409)

**Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign the FY '98 Marcey House Budget Request to the State, as presented. Motion carried.**

**(Commissioner Brugman entered the meeting - 2:35 p.m.)**

- b. **State's Attorney Cooperative Reimbursement Agreement (Child Support Enforcement - \$271,952)**

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

- c. **Office on Aging**
  - (1) **NGA Modification - Title III - Older Americans Act**
  - (2) **NGA Modification - Senior Nutrition Program**

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the Notification of Grant Awards as presented. Motion carried.**

- (3) **Grant Application - Medical Adult Day Care**

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the grant application for the Office on Aging as presented. Motion carried.**

- 3. **Sub-Lease Agreement**  
**St. Mary's County Airport**

**(between Allied Hangars, Inc. and Airpark Sales & Services Inc.)**

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the Sub-Lease Agreement as presented. Motion carried.**

- 4. **Department of Public Works Items**

- a. **Public Works Agreement for St. Mary's Hangars, Inc.; backed by Letter of Credit in the amount of \$119,500 provided by Calvert Bank and Trust Company.**

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

- b. **Addendum to Public Works Agreement for Abell's Ridge Subdivision Section 3; backed by a Bond in the reduced amount of \$245,700 provided by First National Bank of St. Mary's.**

**Commissioner Jarboe moved, seconded by Commissioner Brugman, to approve and authorize Commissioner Thompson to sign the Addendum as presented. Motion carried 3-0-1 with Commissioner Eagan abstaining in that she is on the Board of Directors for First National Bank of St. Mary's.**

- 5. **Appointment**  
**Resource, Conservation and Development Board**

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to sign the letter reappointing Tom Tudor to the RC&D Board. Motion carried.**

6. **Wicomico Shores**

Also Present: Douglas Durkin, County Attorney

(Correspondence to the attorney for Wicomico, Inc. regarding the public landing)

**Commissioner Eagan moved, seconded by Commissioner Brugman, to sign and forward the letter as presented. Motion carried three to one with Commissioner Jarboe voting against.**

Commissioner Jarboe moved to amend the letter to include a request for an extension of the lease and to invite Wicomico, Inc. to a public meeting to discuss options. Motion failed for lack of a second.

**Commissioner Jarboe moved, seconded by Commissioner Eagan, to draft a second letter addressed to Wicomico, Inc. requesting an extension of the lease, which expires April 30, 1997, until the property is deemed buildable, and to suggest a meeting with Wicomico, Inc. to discuss options to keep the park open to the public. Motion carried.**

**Later in the meeting County Administrator Kachmar presented the drafted letter to the President of Wicomico, Inc. as discussed. Motion carried.**

7. **Personnel**

(24 requests for reclassification received during Fiscal Year 1998 budget review. In accordance with discussion held in Executive Session, by memorandum dated April 22, 1997, the Personnel Officer requested approval of the following Reclassification of Positions: Circuit Court: Assignment Clerk from Grade 6 to Grade 8; Assistant Assignment Clerk from Grade 4 to Grade 6.)

**Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve the two re-classifications as recommended. Motion carried.**

**PROCLAMATION**

The Commissioners issued a Proclamation designating the week of May 4 - 10, 1997 as "Restoring Hope - Week Without Violence."

**DOMESTIC VIOLENCE SHELTER PRESENTATION**

Present: Lisa Voso, student, St. Mary's College

Ms. Voso appeared before the Commissioners to make a presentation on the results of her research on the need for a shelter for victims of domestic violence in St. Mary's County. Ms. Voso reviewed statistics (including cases reported through the Sheriff's Office, Walden, Women's Center, Maryland State Police, and St. Mary's Hospital, NAS; and percentage of services provided (safe home, shelters, other); services that shelters provide; funding sources (United Way, private foundations, grants, service clubs, churches criminal justice council); and correlations relative to population and costs (funding sources, costs, number of calls received, and the number of people served).

During her presentation Ms. Voso presented an individual who provided testimony regarding a domestic violence situation.

In conclusion Ms. Voso stated that domestic violence shelters provide immediate on-site access to victims of domestic violence.

**DEPARTMENT OF PLANNING AND ZONING  
PUBLIC HEARINGS**

Present: Jon Grimm, Director  
Mary Hayden, Planner I  
Jeffrey Jackman, Senior Planner  
Peggy Childs, Recording Secretary

A list of other attendees is on file in DPZ.

**ALPD PUBLIC HEARINGS**

Three applications requesting a recommendation to the Maryland Agricultural Land Preservation Foundation to establish an Agricultural Land Preservation District and Sale of Development Rights Easement. All properties were posted by staff and the legal ads published in The Enterprise on 4/9/97 & 4/16/97. Certified Receipts of notification to contiguous properties are identified as Applicant's #A-1 in each application.

**ALPD #97-0363-JOSEPH VALLANDINGHAM**

476.82 acres at Pin Cushion & Sunnyside Roads, 3rd District;  
Tax Map 24, Blocks 12 & 19, Parcels 5, 2 & 63.

Three Parcels of land are involved in this request, all in the same ownership, totaling 476.82 acres. The application meets eligibility criteria in that it is over 100 acres and meets the soils classification requirement - 58% to 94% of the three parcels are classified as Class I, II, or III soils. The ALPD Advisory Board reviewed the application and recommended approval on February 5, 1997. DPZ and DED also recommend approval and, on March 10, 1997, the Planning Commission recommended approval based on the following:

- (1) The property meets State program criteria;
- (2) the proposal is consistent with the Comprehensive Plan, in which agricultural preservation and preserving rural character are major component;
- (3) The property is a productive.

Commissioner Thompson applauded the request and opened the hearing to public comment. Hearing none, she continued the meeting, announcing that the record would remain open for written comment for a period of 10 days.

**ALPD #97-0665-JAMES C. BAILEY**

110 acres located on Medley's Neck Road; TM57, Blk 10/16, P146.

This application also meets State and local criterias for approval; it contains more than 100 acres and 86% of soils are classified as Class I, II, or III. The ALPD Advisory Board recommended approval of 3/5/97. DPZ and DED also recommend approval, and the Planning Commission recommended approval on 3/24/97 based on the following:

- (1) The property meets State program criteria;
- (2) Agricultural preservation and preserving rural character are major components of the Comprehensive Plan;
- (3) The property is a productive farm.

Commissioner Thompson opened the hearing to public comment. Bob and Frances Reed, who own 4 acres contiguous to this property and who received a notification letter, asked how the application will affect their property; they stated their intention to build on their land within the next 5 years. Mr. Grimm explained the ALPD process, stating that this application will not impact their property in any way. Commissioner Thompson advised that what they need to be aware of as property owners is that, if approved by the State, farming will be established by right as the primary use of the property, the right-to-farm taking precedence over surrounding uses. Mrs. Reed stated she feels more

comfortable now, knowing more about the process.

**Commissioner Thompson closed the public hearing, announcing that the record would remain open for 10 days for written comment and the application will come back in two weeks for a decision.**

**ALPD #97-0747-LOUIE/KATHERINE & WILLIAM/ROSE LYON**

173 acres on Budds Creek and Doctor Johnson Roads;  
TM 18, Blk 14/15, Parcel 55.

This property exceeds the minimum size requirement by 73 acres; 82% of the soils are classified as Class I, II, or III. The ALPD Advisory Board recommended approval of 3/5/97; DED and DPZ also recommend approval. On April 14, 1997, the Planning Commission recommended approval based on the following:

- (1) All State program criteria are met;
- (2) The request meets the intent of the Comprehensive Plan in that it is for agricultural preservation and preservation of rural character;
- (3) The property is a productive farm.

During the public comment portion of the hearing, Doug Ritchie asked where the State funding comes from for purchase of the development rights, does the market price vary on the properties, how many rights would be available on a 100-200 acre farm, and whether the owner is required to sell all the rights now or could he sell at some time in the future? Mr. Grimm's replied the State *may* purchase the easement, if funds are available and the offer is satisfactory to the property owner - the easements vary by jurisdiction and market value of the property for agricultural use, based on local zoning; funding is derived from the agricultural transfer tax and possibly other general funds if appropriated; the applicant may sell dependent on funding, competing for funding first in the County and then in the state. There are buy-back provisions, and the appraisals are based on the agricultural value in relationship to the development value.

**The public hearing was closed. The record will remain open for 10 days for written comment and will be brought back before the Commissioners in 2 weeks.**

**PUBLIC HEARING**

**CWSP #96-2300-BAY FOREST, Section I**

Requesting change in sewer category from NPS to RS(e) for 312 acres, zoned RPD, located in the Dameron area; TM 64, Blocks ½, Parcels 5 and 37.

Present: Land Developer Norris Pyles, Owner  
Attorney Karen Abrams, representing Mr. Pyles

Property posted with placard by DPZ on 4/9/97  
Legal Ad published in The Enterprise on 4/9/97 & 5/16/97  
#A-1-Certified Receipts of notice to contiguous property owners  
Ref: (a) DPZ Staff Report dated 4/18/97, providing analysis per  
the Annotated Code

This request is to accommodate 16 single-family residences on 16 recorded lots on Bay Forest Road in the First District. Mr. Grimm explained that two requests for access to the Bay Interceptor Sewer Line were denied by the Commissioners because they were not consistent with the Comprehensive Plan, which states that *no new sewer service shall be extended into the RPD, where high density growth is not desired, unless a health hazard or environmental threat exists*. Because the property is vacant, no such hazard or threat exists. On January 11, 1994, the Commissioners had *denied* the request by a 2-2 vote, however a personal comment by then Commissioner Loffler indicated he would like to see more research done and options pursued for an on-site system. Soils at this site are unsuitable for on-site sewerage disposal, however a small area at a remote location on the property

has been identified which can accommodate no more than 16 grandfathered users. Later in the meeting, Mr. Pyles stated the bulk of the property adjoins The Elms Property, and offered to donate the more than 230 acres that will not perc to the County, for open space or whatever.

One requirement for water/sewer amendments is that they be compatible with the Comprehensive Plan and the Comprehensive Water & Sewerage Plan. A review of the CWSP by DPZ, the Environmental Health Director, MetComm Director and the County Attorney, revealed that the CWSP limits shared systems to 6 users. Section 3.06(b) of Article 66B (Annotated Code) requires that development be concentrated in suitable areas and that growth be directed to existing population centers while protecting resources. MDE regulations require a controlling authority for shared facilities; in this case it would be MetComm.

If approved, costs to construct the facility would be borne by the developer, however, MetComm operating standards require them to maintain *all* facilities over 6 users. Administrative approval may be granted for up to 6-users system without a water/sewer amendment. Staff recommends denial based on the fact that the proposed 16 -user system is not consistent with the CWSP. On 11/13/97, the Planning Commission also recommended denial based on those findings but appointed a committee to reexamine the *concept* of shared facilities for over 6 users and to recommend whether and under what conditions the County *might* pursue a CWSP amendment to permit them.

Pat Mudd, of Mudd Engineering, presented the preliminary plan and elaborated on the background of the request. Attorney Karen Abrams stated it was on the strength of Commissioner Loffler's comment that Mr. Pyles spent the money to determine whether the lots could be served and to design a system. The application was going along nicely except for the 6-lot shared facility limitation. Ms. Abrams said she thinks the County *wants* clustered projects and shared community facilities, and that this is a good, solid, environmental solution to the developer's problem. The Commissioners should approve the request for two reasons, Ms. Abrams said: First, the word *should* in the CWSP is not mandatory; it is a strong recommendation but the Commissioners are not bound by it. Second, it was because of Mr. Loffler's comment that the developer pursued the system, and approving the amendment is the right thing to do.

In response to Commissioner Eagan's question, Planning Commission member Shelby Guazzo stated Mr. Pyles' is a special case because his lots are of record and he is entitled to certain development rights. The Planning Commission felt it should not be setting precedent on a special case basis but that the case itself should be looked at more closely on a general, County-wide policy basis and that, perhaps, the 1993 CWSP is too restrictive. There was also a concern as to the homeowners association taking care of the proposed facility. Ms. Guazzo said she thinks the Commissioners need testimony from Mr. Petty and Mr. Russell to look at the ramifications of the issue; i.e., does MetComm want to take care of little, spot-shared systems all around the County that might pop up from other developers wanting to use this same proposal? The Planning Commission felt it should go beyond that and look at this on a County-wide basis.

Commissioner Eagan said, when Commissioner Loffler made his comment in 1994 that options should be pursued for an on-site system, he must have been aware of the Comprehensive Plan restriction, and asked why we thought he would say that? Commissioner Thompson replied that the subject of the proposal was to connect to the Bay Interceptor Sewer, and the detail that an on-site system would be limited to 6 lots was not put forth at that time. Commissioner Loffler's comment was what *he* would like to see, but that was not the proposal before the Commissioners.

Commissioner Thompson opened the hearing to public comment.

Hearing none, she continued the hearing to the Commissioners' regular meeting of May 13, 1997, at 2:05 p.m., for Mr. Russell and Mr. Petty to be present.

## **ANIMAL CONTROL POLICIES**

Present: Phil Cooper, Deputy Director, Emergency Management Agency

At the request of Commissioner Jarboe at last week's meeting, Mr. Cooper appeared before the Board to discuss Emergency Management policies relative to animal control. Mr. Cooper advised that a new policy manual is being developed for EMA including a section on Animal Control (including complaint procedures, dog license availability, patrol areas, and referral policy (SMAWL and Humane Society). Other areas of discussion included implementation of the County's Animal Control Ordinance at Patuxent River; chemical immobilization; medical support for injured animals; mutual aid agreements for the tri-county area in times of emergency and manpower shortage; Animal Welfare League vs. St. Mary's Humane Society for assistance (issue of pending suit against county by AWL; trespass notice issued against animal wardens by AWL; and the handling of complaints through the media by AWL instead of Animal Control); and wild animal emergency response.

In closing Mr. Cooper referred to training that the animal wardens have attended/completed at the Southern Maryland Criminal Justice Training Academy on subjects including Use of force, note taking law enforcement code of ethics, telephone courtesy, crime scene investigations, testifying in court, occult crimes, etc.

## **RECREATION AND PARKS ANALYSIS OF ATHLETIC FIELDS**

Present: Phil Rollins, Director  
Art Shepherd, Recreation Division Chief  
Kenny Sothoron, Sports Coordinator

As a follow up to a request by the Commissioners, representatives of the Department of Recreation and Parks appeared before the Board to present information relative to sports fields, field usage, and league participation. The report included: breakdown of athletic field (and basketball court) availability; breakdown of outdoor youth sports participation; and growth trends. Mr. Rollins pointed out that in summary approximately 7,015 youth will be participating on 530 youth sports teams during 1997; there are 130 game fields and practice areas available throughout the County at 42 parks, schools and private sites.

In conclusion Mr. Rollins reviewed the significant issues and needs and made the following recommendations to address those needs.

- \* expedite land acquisition, planning, and field construction at Fifth District, Hollywood, and Willows Road (to be a focus of the capital projects manager);
- \* consider lighting existing soccer fields or practice areas;
- \* consider sports field needs during master plan development for Myrtle Point, Nicolet, and Chancellors Run Parks;
- \* involve youth sports presidents council.

After discussion the Commissioners thanked Mr. Rollins and his staff for providing the information on the athletic fields and their usage.

## **OTHER RECREATION AND PARK ISSUES**

### **Program Open Space**

Mr. Rollins informed the Commissioners that the State Board of Public Works' decision on the County's Program Open Space funds has been rescheduled from April 30 to May 21.



**Chaptico Wharf Project**

In response to an inquiry from the Commissioners, Mr. Rollins advised that the Chaptico Wharf project is still in the design phase, and it is uncertain when it will go to construction. Mr. Rollins indicated he would keep the Commissioners informed on the status of the project.

**ROAD NAME CHANGES**

Present: Jeff Jackman, Planner

As a follow up to the April 1, 1997 public hearing, the Commissioners took the following actions.

**Walters Lane to Mariner Lane**

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

**Pops Run Way to Deer Pond Lane**

**Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve the change to Deer Pond Lane as requested. Motion carried.**

**Copperhead Lane to Meadow Farm Lane (original request)**

Mr. Jackman advised that at the April 1 public hearing, Mrs. Elva Anderson provided testimony that Anderson Lane is the historic name of the road and indicated she would circulate a petition among the property owners requesting that name. Subsequently a second petition, containing the names of the three affected properties, was received to request the road be change to Briscoe Anderson Lane. Mr. Jackman stated that the County Attorney had advised that if the legal notice was worded to serve notice that a change was being contemplated and not for a specific name, the new submission could be considered.

**After discussion Commissioner Brugman moved, seconded by Commissioner Jarboe, to change the road name to Briscoe Anderson Lane as requested. Motion carried.**

**COUNTY COMMISSIONERS' TIME**

**Response to Letter to the Editor**

Commissioner Thompson indicated a decision would be needed to respond to a letter to the Editor in the Enterprise stating that staff has investigated the concerns addressed in that letter. The Commissioners indicated they needed more time before responding.

**PROPERTY ACQUISITION (PRB ASSOCIATES)**

Present: Douglas Durkin, County Attorney

**Commissioner Eagan moved, seconded by Commissioner Thompson, to meet in Executive Session to discuss a matter of property acquisition (PRB Associates). Motion failed with Commissioners Brugman and Jarboe voting against (two to two vote).**

Mr. Durkin reviewed the history of the property, a 4.23 acre parcel, located in St. Mary's Industrial Park, Sixth Election District, which is currently owned by the County, stating that a public hearing was held on July 23, 1996 regarding the sale of the property to PRB Associates, Inc. and/or Southern Maryland Property Management Associates. On October 1 the Commissioners directed staff to proceed with negotiations for the sale of the property subject to covenants, restrictions, and easements.

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After his presentation County Attorney Durkin recommended that the Commissioners accept the proposed purchase price of \$10,000 made by PRB Associates for the sale of the referenced property.

After discussion Commissioner Brugman moved, seconded by Commissioner Eagan, to authorize the County attorney to prepare the necessary closing documents that would include a purchase price of \$10,000 and that the documents be submitted to the Board for approval after they have been reviewed and approved by PRB Associates, Inc. Motion carried.

#### ADJOURNMENT

The meeting adjourned at 6:45 p.m.

Minutes Approved by Board of  
County Commissioners on 5/6/97

*Judith A. Spalding*

Judith A. Spalding  
Recording Secretary