

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
AUGUST 19, 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 Chesser, to approve the minutes of Tuesday, August 12, 1997 as corrected. 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 Chesser moved, seconded by Commissioner Eagan, to approve the agenda as amended (addition of discussion with Director of Recreation and Parks regarding day care at Hollywood Elementary School). Motion carried.

CONSENT AGENDA

The Consent Agenda included the following:

Correspondence

- a. To Jean and Robert Bain concerning the proposed expansion of the Lexington Park Development District Line from Hermanville Road to Park Hall Road during the Comprehensive Land Use Plan revision process.
- b. To Maryland Department of Transportation requesting consideration for use of shoulders on Md. Rt. 235 to alleviate traffic problems.
- c. To Maryland Department of the Environment regarding delegation of Sedimentation and Erosion Control Authority.
- d. Letters expressing appreciation for contributions in support of Fire/Rescue Appreciation Day.

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve the Consent Agenda as presented. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: John J. Kachmar Jr., County Administrator

1. Boards/Committees/Commissions

a. Letters of Appointment

Commissioner Brugman moved, seconded by Commissioner Jarboe, to make the following appointments and to sign the letters of appointment as presented. Motion carried.

Cable Advisory Committee

Kathleen Werner

Term to Expire

12/31/2000

Solid Waste Advisory Committee

Barbara Pryor

12/31/2001

b. Letter of Appreciation

Commissioner Brugman moved, seconded by Commissioner Eagan, to sign the letter of appreciation, as presented. Motion carried.

2. Budget Amendments

a. No. 98-3 - Public Works

(for Signal Installation at Md. Rte. 5 and Rte. 244/Fairgrounds Road Intersection - \$6,667)

Commissioner Chesser moved, seconded by Commissioner Brugman, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 98-3, as presented. Motion carried.

b. No. 98-4 - Public Works

(for removal of unsuitable soil for the construction of Indian Bridge Road - \$47,517)

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 98-4, as presented. Motion carried.

3. Board of Education

(Annual requirement by Maryland State Department to submit a Certification Report relative to budgeted county funding for public school operational and capital expenses)

Commissioner Chesser moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the Certification Report, as presented. Motion carried.

4. General Obligation Bond Resolution

Also Present: Steve Welkos, Director of Finance

The County Administrator presented a memorandum dated August 13 from the Director of Finance advising that the County's financial advisor has been monitoring the bond market for possible inclusion of a refunding of some prior debt in our upcoming bond issue. The analysis indicates that refunding of \$3,305,000 in outstanding debt from a 1986 bond issue could result in a savings of \$232,277 over the remaining life of that issue which will mature in 2005.

Mr. Welkos requested direction from the Commissioners whether they concurred in including the possible refunding so that it can be included in the bond resolution.

During discussion Mr. Welkos reported on the meetings in New York regarding the upcoming bond issue and that Moody's has given St. Mary's County a bond rating of A1 (the bond rating from Standards and Poor has not yet been received).

After discussion Commissioner Eagan moved, seconded by Commissioner Chesser, to include the Refunding Issue in the General Obligation Bond Resolution. Motion carried.

5. **Department of Public Works Items**

a. **Road Deeds/Road Resolutions**

- (1) Summerwood Subdivision, Section 1, 2nd Election District
 - * Deeds Accepting **Summerwood Court** and **Stoney Run Drive** into the County's System.
 - * Road Resolution No. R97-16 establishing Stop Streets.
 - * Road Resolution No. R97-17 establishing 25 mph speed limit.

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

- (2) Woods Subdivision, 6th Election District
 - * Deed Accepting **Virginia Court** into the County's System.
 - * Road Resolution No. R97-19 establishing Stop Streets.
 - * Road Resolution No. R97-20 establishing a 25 mile per hour speed limit .

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

- (3) Road Resolution No. R97-25 posting Bayview Road at 25 miles per hour.

Commissioner Chesser moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the Road Resolution as presented. Motion carried.

b. **Public Works Agreements/Addendum**

- (1) Agreement for **Harper's Corner Estates**; backed by Letter of Credit in the amount of \$35,500 provided by First National Bank of St. Mary's.

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

- (2) Agreement for **Hickory Hills, Section 3B**; backed by Letter of Credit in the amount of \$376,000 provided by Nations Bank.

Commissioner Chesser moved, seconded by Commissioner Brugman, to approve and authorize Commissioner Thompson to sign the Public Works Agreement as presented. Motion carried 4-0-1 with Commissioner Eagan abstaining.

- (3) Addendum for **Cedar Cove, Section 5**; backed by a Letter of Credit from Nations Bank in the amount of \$353,000.

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

c. **Claim Letters**

- (1) In the amount of \$5,000 to Maryland Bank and Trust for Construction Permit 4/94
ROW-01 for **Moorings at Cedar Cove.**

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

- (2) In the amount of \$340,000 to First National Bank of St. Mary's for Public Works Agreement for **Avenmar Subdivision, Section 1.**

Commissioner Chesser moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign the Claim Letter 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.

d. **Railroad Right-of-Way Agreement**

(between St. Mary's County, SMECO, and Bell Atlantic to provide a directional bore for communication services into Trentino Estates in the vicinity of Hughesville)

Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Railroad Right-of-Way Agreement as presented. Motion carried.

6. **Emergency Communications System** (follow up to 8/12/97 meeting)
(Correspondence to MCI Systemhouse, International Public Safety Group, expressing Commissioners' intent to negotiate with MCI for emergency communications services and explaining the public hearing and appropriation process.)

Commissioner Chesser moved, seconded by Commissioner Eagan, to approve and sign the letter to MCI Systemhouse as presented. Motion carried.

7. **Grant Documents**

a. **Office of Community Services/Alliance**

- (1) Grant Agreement for Highway Safety Project - State Funding - \$40,000;
County - 40% in-kind - \$16,000.

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

- (2) Notice of Grant Award - VISTA Transportation Grant - Federal Funding - \$3,000.

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

- b. **Department of Economic and Community Development**
Project Close Out - Maryland Community Development Block Grant
(Commercial Revitalization Redevelopment Plan)

Commissioner Eagan moved, seconded by Commissioner Brugman, to approve and authorize Commissioner Thompson to sign the Close Out document as presented. Motion carried.

- c. **Walden/Sierra**
Women's Services Grant - Contract Modification - additional \$19,050
(Expansion of Services for Rape Prevention Education)

Commissioner Chesser moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the Contract Modification, as presented. Motion carried.

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director
George Erichsen, Supervisor, Engineering Services

Road Resolutions - Old Tall Timbers Road/Tall Timbers Road

As a follow up to last week's discussion on the referenced Road Resolutions which set 30 mph speed limits on Old Tall Timbers Road and Tall Timbers Road, Mr. Ichniowski presented a memorandum of explanation. The memorandum advised that the roads had been previously set at 30 mph; however, the signs disappeared, the previous road resolutions could not be found; and therefore new resolutions were presented.

Commissioner Chesser pointed out that the roads were dangerous (deep ditches and no shoulders) and that he believed the roads should be posted at 25 mph.

After discussion Mr. Ichniowski agreed to research the classifications of the roads and what it serves to determine the appropriate speed limit. The Commissioners agreed to defer a decision on the road until Mr. Ichniowski provides this information.

Project Status Report

Messrs. Ichniowski and Erichsen presented the Department of Public Work's Status Report broken down by division Engineering (including Airport projects, Community College, HVAC Governmental Center, Adult Detention Center, Judicial Center, Bldg. #4 demolition, ADA building accessibility, stormwater management projects, firing/training, board of education central offices); Highways (including , Hewitt Road, Route Evaluation Study, Indian Bridge Road, Millstone Landing Bridge, Patuxent Park Reconstruction, Browns Manor Taxing District); Solid Waste/Recycling (including solid waste exportation/privatization, St. Andrews Landfill, household hazardous waste, recycling services); marine (including dredging projects, inlet and revetment projects, taxing districts, derelict boat program).

Areas of discussion included the judicial center (construction to begin February 1998); firing range (Commissioner Brugman advised that there was a group that was trying to keep the public and the Sheriff's Department from having the firing range siting that there were endangered species at the site); Board of Education central offices (Mr. Ichniowski has been working with public school staff regarding location of facility; that the best location appeared to be at the grassy area next to the parking lot across from senior center because of existing water/sewer services; that staff was looking at a modular facility; and that public school staff wanted an expandable facility; Patuxent Park reconstruction (to be done in fiscal years 1999 - 2003); solid waste (proposals have been received, interviews to be held with providers; liner requirements for rubble landfills--Mr. Ichniowski will provide additional information); and the derelict boat program.

A copy of the report is on file in the Commissioners' Office.

DEPARTMENT OF LAW

Present: Douglas Durkin, County Attorney

Skipjack Property - Offer to Sell

As a follow up to last week's public hearing relative to the proposed sale of the Skipjack property to the U. S. Postal Service, County Attorney Durkin advised there were three decisions to be made; however, prior to addressing these issues he indicated that he had some new information to provide the board as a result of a conversation with Mr. Eisenrauch of USPS. Mr. Durkin reported that USPS has indicated the following:

- * that the deadline for offer to sell by the County is August 28 (the date the funding for the project would expire);
- * that USPS has obtained an appraisal report and that the property was appraised at \$470,000 (the County cannot demand a higher price without additional information); Mr. Durkin advised that Gateway, the firm that had done the county's initial appraisal at \$420,000 (which he informed the appraiser that this was a problem because the County has \$470,000 invested in the property through a CDBG loan) redid the appraisal because the first one was based on the proposed Lexington Park Master Plan. The appraiser then reconsidered and verbally reported a substantially higher value--more than twice the original value.
- * that two problems had been raised by USPS--setbacks and ingress/egress and whether changes could be made to Lexington Park Master Plan to accommodate requested changes. Mr. Durkin advised that the USPS is immune to local jurisdiction's zoning regulations; however, Mr. Eisenrauch has indicated that USPS would prefer to work with local government. Mr. Durkin indicated the Commissioners have two options--(1) to leave it out of the contract and allow USPS to exercise its immunity or (2) to have USPS go through Planning and Zoning process.

Mr. Durkin advised that the Commissioners needed to make three decisions:

1. Does the sale of the Skipjack property to the U. S. Postal Service meet the requirements of Article 25, Section 11A with regard to "public use?" If not, is the property no longer needed for a public use?

Commissioner Jarboe moved, seconded by Commissioner Eagan, that the sale of the Skipjack property to the U.S. Postal Service be regarded as a public use. Motion carried.

2. Will the County agree to remove the sovereign immunity clause from the Offer to Sell real property as requested by the USPS and as recommended by the County Attorney?

Commissioner Eagan moved, seconded by Commissioner Jarboe, to delete the "sovereign immunity" clause. Motion carried.

3. Are the terms and conditions stated within the Offer to Sell as described by the County Attorney on August 12, 1997 acceptable to the Board?

Discussion ensued regarding #2 in the Offer to Sell concerning the appraised value and selling price, and wide range of appraisal values; that the County has not received a response from the State or HUD to date regarding the use of CDBG funds and the disposition of any funds beyond what the County has invested; the handling of other expressions of interest in the property; e.g., Bay District Fire

Department. Mr. Durkin indicated that as long as the Commissioners had not signed the Offer to Sell, the Commissioners could consider another buyer.

In closing the Commissioners agreed that:

- * the County get all three appraisal reports (including the second appraisal from Gateway in writing) and that county staff analyze these reports.
- * the County's legislators be contacted to assist in getting a response from the State regarding CDBG funds; and that the Commissioners also make contact with the State.
- * the issue of the sale of the Skipjack property be placed back on the agenda for next week (August 26).

Offer to Purchase Property (Adjacent to Clements Landfill)

Also Present: Louise Sommerville

Mr. Durkin appeared before the Board to get direction relative to the request by Ms. Louise Somerville to purchase approximately three acres of property located behind the Clements Landfill, Fourth Election District. He stated that the Commissioners in 1992 approved a Memorandum of Understanding between the Board and Ms. Sommerville which set forth the terms and conditions by which the County would consider the sale of the property. The 1992 MOU offered the sale via a private sale without competitive bidding and without a deadline for Ms. Somerville to finalize the purchase of the property. Attorney Durkin pointed out that he did not believe that the MOU was binding on the current board; however, the Board may wish to honor the agreement, which would raise other issues to be resolved:

- * the fact that the County had adopted a policy in 1991 indicating that the sale of county property "shall be by public bid or auction and awarded to the highest bidder." However, Article 25, Section 11A does allow the County to sell property privately without offering it to the public provided the Board declares that the property is not needed for a public purpose and a public hearing is held. After the hearing the Commissioners would have a right to say they do not want to go forward with a private sale; however, if a contract is signed, the contract should be contingent upon the Commissioners exercising its discretion of whether to go forward with the sale or cancel the MOU.
- * Whether to sell the property at the 1993 appraised value or get a current appraisal.
- * That a survey would be needed to close the sale.
- * That in order to sell the three acres to Ms. Somerville, the property must be subdivided.

Ms. Somerville explained her interest in the property, which is adjacent to hers and her sister's.

In conclusion the Commissioners agreed to defer a decision on the sale of this property until next week to allow the Commissioners an opportunity to review the plat of the landfill property and any other documents to assist them in their decision.

**JOINT PUBLIC HEARING WITH METROPOLITAN COMMISSION
REPEAL OF COUNTY'S SEWER USE ORDINANCE/
ADOPTION OF METCOM'S SEWER USE REGULATIONS**

Present: Larry Petty, Director, MetComm
Joseph Mitchell, Attorney, "
John Castle, Engineer, "
Colleen Sico, Pretreatment Coordinator "
Douglas Durkin, County Attorney

The Board of County Commissioners and the Metropolitan Commission conducted a public hearing on the proposed repeal by the Board of County Commissioners of the current St. Mary's County Sewer Use Ordinance and the adoption by the St. Mary's Metropolitan Commission of the Sewer Use Regulations.

The proposed Ordinance will repeal the current Ordinance to avoid duplication with the proposed St. Mary's County Metropolitan Commission's sewer Use Regulations regarding the use of public and private sewers and drains, private sewage disposal, the installation and connections of building sewers, and the discharge of waters and waste into public sewer systems, and to provide penalties for violations thereof in the Sanitary Districts.

Mr. Petty read the Notice of Public Hearing into the record and noted that the proposed Regulations were drafted consistent with the model provided by Maryland Department of Environment and the Environmental Protection Agency.

Mr. Castle reviewed each section of MetComm's proposed Regulations.

After discussion the hearing was opened for comments from the public; hearing no comments the public hearing was closed. The record will remain open for ten days for comments.

COUNTY COMMISSIONERS' TIME

Myrtle Point

Also Present: Phil Rollins, Director, R&P
Douglas Durkin, County Attorney

Commissioner Brugman indicated that the Recreation and Parks Board is completing its work on the RFP for Myrtle Point and that the Planning Commission is going to require the R&P Board to present its findings to the Planning Commission prior to it coming

before the County Commissioners. He requested concurrence to ask the R&P Board to report directly to the County Commissioners.

Discussion ensued regarding the intent of the letter sent to the R&P board and Planning Commission and the process to be followed; that the recreation plan is an element of the comprehensive plan and it is up to the Planning Commission to decide what goes in it, but the Commissioners have the authority to enact it; Planning Commission's request to R&P Board to present its list of priorities for amenities and facilities for consideration in the Master Plan before the consultant is hired; there were two issues (RFP and the process in getting the RFP out and what things should be considered to go into the Master Plan).

After discussion the Commissioners agreed that when the Recreation and Parks Board completes its findings as to what should be included for consideration by the consultant, that the R&P Board come before the Commissioners to present its report and that the Planning Commission also be present to hear the findings at the same time.

Route 235 Drainage Problem

Commissioner Eagan reported that during the last major rain storm, it was brought to her attention that there is a pipe on Route 235 in a location above the Super 8 and Runco Realty location. There is a large pipe and water rushes through it and goes naturally down hill to a smaller pipe under the railroad right-of-way and the water cannot get through the smaller pipe. The land owners have contacted Public Works and State Highway and have not been able to get the situation resolved, and Commissioner Eagan requested staff to request DPW to address this concern. Commissioner Chesser pointed out that there is a similar situation on Great Mills Road in the vicinity of the veterinarian.

Old Hollywood Elementary School

Also Present: Phil Rollins, Director, R&P
Art Shepherd, Recreation Division Chief

As a follow up to last week's discussion and at the request of the Commissioners, Mr. Rollins appeared before the Board to explain the sign and banner at the Old Hollywood Elementary School which advertised day care. He advised that the sign reads *Hollywood Child Care Center*; and the banner was put up to advertise registration. He explained the referral agreement with a day care that was located in the vicinity, and that the registration sign was changed from advertising for three to four year olds to advertise for five to twelve year olds for the *Before and After School Program*.

After discussion the Commissioners agreed to allow a sign placed on the building identifying the *Before and After School Program* and *K.E.E.P.* and directed that the current sign and the banner be removed.

Millstone Landing Road/Bridge

Commissioner Jarboe referred to his motion last week that a public hearing be scheduled for the abandonment and quit claim deed for a portion of Millstone Landing Road. He stated that a letter has been received from Mr. Daugherty, the attorney representing the property owners indicating that all property owners have agreed to make it a private road and requesting that the motion be amended to include the full one mile of road.

Therefore, Commissioner Jarboe moved, seconded by Commissioner Chesser that the August 12, 1997 motion be amended to include all of the property owners and that the full one mile of Millstone Landing Road be included in the advertisement for abandonment by the County. Motion carried four to one with Commissioner Brugman voting against because there was not a signed petition by all the property owners.

Lexington Park Christian School

Commissioner Jarboe advised that three classes at the Lexington Park Christian School can no longer continue at the church location and the School was planning on relocating these classes at Take It Easy Ranch; however, there were some zoning issues.

Commissioner Chesser advised that the zoning would have to be changed at the Take It Easy Ranch in order for the school to locate there unless the Ranch has been used as a school prior to 1974. An application can be made to the Board of Appeals for a Conditional Use and that the Commissioners cannot change the zoning without a public hearing. He further pointed out that there were safety concerns at that location.

Commissioner Jarboe raised questions whether the Ranch could give the school temporary use of the property; whether the Commissioners could waive the requirement for a conditional use (not without a public hearing); and whether the Commissioners could resolve a Religious Tolerance Act where the County would not interfere with religious activities or education.

In conclusion Commissioner Jarboe indicated he would like more information about the situation and whether there were alternatives.

EXECUTIVE SESSIONS

Commissioner Brugman moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss matters of Personnel (Legal Department - Reclassification Appeals and Sheriff's Department - Workers' Compensation Leave), as provided in Article 24, Section 4-210(a)1. Motion carried four to one with Commissioner Jarboe voting against.

Personnel (Sheriff's Department - Workers' Compensation Leave)

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
Judith A. Spalding, Recorder

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

Time Held: 5:25 p.m. - 5:35 p.m.

Action Taken: The Commissioners reviewed two memoranda from the Human Resources Office and agreed to continue discussion at next week's meeting.

Personnel (Legal Department Reclassification Appeals)

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 (left the session at 5:50 p.m.)
Judith A. Spalding, Recorder

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

Time Held: 5:35 p.m. - 6:15 p.m.

Action Taken: The County Attorney reviewed the appeals and the Commissioners agreed to take action in open session at next week's meeting.

ADJOURNMENT

The meeting adjourned at 6:15 p.m.

Minutes Approved by Board of
County Commissioners on 8/26/98

Judith A. Spalding

Judith A. Spalding
Recording Secretary