

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
January 27, 1998**

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, January 20, 1998, as corrected, and the January 13, 1998 (continuation of First Colony public hearing) and January 20, 1998 (Growth Allocations) from the Department of Planning and Zoning, as presented. Motion carried.

APPROVAL OF CHECK REGISTER

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

ADDITIONS/DELETIONS TO AGENDA

Commissioner Chesser moved, seconded by Commissioner Eagan, to accept the agenda with the following amendments: to delete and reschedule the DPW executive session; to add an executive session for Personnel. Motion carried.

CONSENT AGENDA

Correspondence to:

1. Dave Head regarding signage at the intersection of MD State Routes 234 and 238.
2. Various individuals regarding the upgrading of Park Glen Court in Park Hall Glen Subdivision: a. Pye Unkle; b. Steven & Leeanne Whorl
3. Norma & Bill Pipkin regarding the First Colony rezoning request.
4. Robert & Dorothy Joyner regarding Otterness property conveyance.
5. Lori Webb, Esquire, regarding private road in Hatton's Rest Subdivision (also known as Park Hall Glen).
6. Chair of Historic Preservation Commission regarding the historic preservation section of the county zoning ordinance.

Commissioner Eagan 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. Budget Amendments

a. No. 98-20 - Recreation and Parks

(to cover costs for reclassification of museum employee after FY '98 adoption - \$2,132)

Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 98-20 as presented. Motion carried.

b. No. 98-21 - Public Works

(For partial funding of temporary courthouse facilities for eventual use as the Bd/Ed's offices - \$590,000)

Commissioner Eagan moved, seconded by Commissioner Chessser, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 98-21 as presented. Motion carried four to one with Commissioner Chessser voting against, stating he would like to see total figures for the courthouse project.

c. No. 98-22 - Public Works

(for temporary transfer of budget authority for courthouse construction costs in order to proceed with project (\$4,646,000))

Commissioner Eagan moved, seconded by Commissioner Brugman, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 98-22 as presented. Motion carried four to one with Commissioner Chessser voting against.

d. No. 98-23 - Public Works

(Snow emergency equipment for building maintenance per 11/27/98 meeting with County Administrator - \$4,000)

Commissioner Chessser moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 98-23 as presented. Motion carried.

e. No. 98-24 - Alcohol Beverage Board

(for temporary part-time Liquor Board Inspector - \$4,794.85)

Also Present: William Cullins, Chair, Alcohol Beverage Board
Dalton Wood, "
Pat Insley, Clerk, "

Mr. Dalton explained the need for a Liquor Board Inspector and emphasized the importance that the individual be a Sheriff's deputy (because of the need for arrest authority).

After discussion Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 98-24 as presented. Motion carried.

f. No. 98-25 - County Commissioners

(County's match for professional consultant to do survey work/research for possible locations for the Naval Air Test and Evaluation Museum - \$50,000)

Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign Budget Amendment No. 98-25 as presented. Motion carried.

2. Department of Public Works Items

- a. Public Works Agreement Addendum for **Persimmon Hills Subdivision**, Section 1, 5th Election District; backed by a Bond in the amount of \$65,000 provided The International Fidelity Insurance Company.
- b. Public Works Agreement Addendum for **Westbury PUD Subdivision**, 8th Election District; backed by a Bond in the amount of \$85,000 provided by The Frontier Insurance Company.

Commissioner Chesser moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign the Addenda for Persimmon Hills and Westbury as presented. Motion carried.

- c. **Sycamore Hollow, Wildewood Subdivision**, 8th Election District
 - (1) Road Deeds for **Sycamore Hollow Drive and Mimosa Court**
 - (2) Road Resolution No. 97-45 posting 25 mph speed limits on **Sycamore Hollow Drive and Mimosa Court**
 - (3) Road Resolution No. 97-46 establishing stop streets on **Sycamore Hollow Drive and Mimosa Court**.

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

3. Grant Documents

- a. **Office of Central Services**
(Capital Improvement Grant Agreement with the Maryland Mass Transit Administration for the purchase of Wheel Chair Locks - \$9,900 (Federal share - \$7,920; State share - \$990; Local share - \$990)

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

- b. **Department of Economic and Community Development**
(Letter to Maryland State Historic Preservation in support of an emergency non-capital grant of \$5,000 for the hiring of a consultant to help Southern Maryland Heritage Partnership Committee prepare and resubmit an application for state recognition as a Heritage area.)

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve and sign the letter to the Maryland Historic Preservation as presented. Motion carried.

4. Board of Education Grant Awards

(Request from Superintendent to include the following state grant and revolving fund award in the Bd/Ed's FY 1998 Budget: (Grant Awards: Disruptive Youth - \$15,000; Gifted and Talented Summer Center - \$13,813; Information Technology Staff Development - \$16,107; School Recognition Awards - \$94,889. Revolving Fund Award: St. Mary's Hospital ABE/GED - \$6,000) Authorization for Commissioners to approve and sign letter to President, Board of Education approving the Awards as requested.

Commissioner Jarboe moved, seconded by Commissioner Chesser, to sign the letter to the President of the Board of Education approving the inclusion of the grant awards and revolving fund award as presented. Motion carried.

5. **Settlement Agreement and Stipulated Order of Final Judgment in Kramer vs. Board of County Commissioners.**

- a. Authorization for Commissioner Thompson to sign
- b. Authorization to Issue Information Release

Commissioner Eagan moved, seconded by Commissioner Chessser, to approve and authorize Commissioner Thompson to sign the Settlement Agreement and Stipulated Order of Final Judgment and further to Issue the Information Release as presented. Motion carried.

6. **Department of Economic and Community Development**

- a. **Correspondence to Governor Glendening**
(Recommending that the State restore the \$11 Million to the Agricultural Land Preservation Foundation budget; said funds could be used to help farmers voluntarily participate in the Agricultural Land Preservation Easement Acquisition program.)

Commissioner Chessser moved, seconded by Commissioner Jarboe, to sign and forward the correspondence to Governor Glendening as presented. Motion carried.

- b. **Draft Correspondence to Per Diem Committee from Economic Development Commission**

Commissioner Eagan referred to the last sentence in the first paragraph which limits the per diem rate area to St. Mary's County and Solomon's Island and advised that the Tri-County Council is also sending a letter that would be including all three counties. She suggested that the letter be amended to either include all three counties or to delete the sentence entirely.

Commissioner Chessser moved, seconded by Commissioner Eagan, to authorize the Economic Development Commission to sign and forward the letter as discussed. Motion carried.

7. **Request for Establishment of Elected Officials' Salaries**

County Administrator Kachmar presented correspondence from the Administrative Aide to Senator Dyson advising that Senator Dyson and Delegate Slade regarding the possibility of establishing an ad hoc committee to review elected officials' salaries and to make recommendations. The letter indicates that the Sheriff and County Treasurer approach Senator Dyson regarding the possibility of introducing bills to increase their salaries.

After discussion the Commissioners indicated that there were not in favor of forming a local ad hoc committee on this issue.

**SMITH, SOMERVILLE AND CASE
PRESENTATION OF NURSING CENTER LEGAL AUDIT**

Present: Cheryl O'Donnell Guth, Esq., (formerly with Smith, Somerville and Case)
Douglas Durkin, County Attorney
Other County Staff

Ms. Guth appeared before the Commissioners to present and review the legal audit prepared by Smith, Somerville and Case regarding the St. Mary's Nursing Center, and to make recommendations for remedial action.

During her presentation Ms. Guch highlighted certain areas and recommendations of the report which included (the full report with recommendations is on file in the Commissioners' Office):

- * That the Nursing Center has always been an agency or department of County Government; however, the facility has not been operated in this manner, and many illegalities and irregularities have resulted.
- * That the Nursing Center Board was created as an advisory board, but was delegated operational authority and acted illegally for over ten years.
- * That the County's procurement policies had not been used in obtaining contracts.

Recommendation: That the facility begin coordinating with Mr. Haley, Director of Central Services, under the County's procurement policies and procedures and put all contracts out for bid.

- * That many of the facilities policies and procedures were in unwritten form.

Recommendation That all policies be put in written form, that all outdated policies be updated and compiled into one manual to be approved by the Board of County Commissioners or authorized designee.

- * That there is a problem with the Employer Identification Number that is being used by the facility, and penalties (\$50 per use) could be assessed against the County. (It was noted that all appropriate taxes had been paid.)

Recommendation: That County staff contact IRS and provide disclosure and try to get IRS to waive the penalties.

- * That the report found no evidence of discrimination, but there were problems found with regard to admission's materials used by the facility (outdated references to laws and regulations).

Technical Recommendations are contained in the written report regarding these forms.

- * That the current nursing home facility has no liability under the Hill Burton Act; however, the old facility does have liability which may not have been fulfilled.

Recommendation: That the County confirm that the old facility has fulfilled its requirements or determine what requirement it has to continue to provide uncompensated care. Administrators of Hill Burton Funds must be contacted.

- * That the license for the facility expired in September of 1997.

Recommendation: That the Administration continue to pressure the State to issue the license as soon as possible and that the facility apply for renewal in a timely manner.

- * Employee Pension/Benefit Issues:

- * That the withdrawal of nursing center employees from the State Retirement System required approval of the Board of County Commissioners.

Recommendation: That the Commissioners adopt a Resolution ratifying approval of actions taken by the Board of Directors of the Nursing Center regarding withdrawal of employees from the Pension Plan. That the County appoint someone with employee benefits experience to monitor the administrator of the plan.

- * That other employee benefits were not approved by the Board of County Commissioners.

Recommendation: That benefit program should be approved at the County level; that providers be selected under the County's procurement procedures; and written materials be reviewed and revised annually to reflect changes in law and coverage.

- * That there is one participant in the 457 Program.

Recommendation: That the individual be transferred into the County's 457 Plan or that other employees of the nursing home be allowed to participate in the plan.

* Employee Issues:

- * That nursing center employees are county employees and that wage and benefit packages must be approved by the County.
- * That employee-related documents (handbooks, employee policies and procedures) are outdated and some contain improper language.

Technical Recommendations are contained in written report.

* 1986 and 1992 Bond Transactions:

- * That there was evidence that third party service contracts were not being reviewed by a law firm/bond counsel.

Recommendation: That all third party service contracts be reviewed by bond counsel prior to being executed.

- * That there was not enough information in the documentation to determine whether the escrow account had been properly set up.

In concluding the report Ms. Guth outlined future options regarding the nursing center facility:

- * To continue to own and operate the facility through its Building Authority Commission (recommend that the County not maintain this status quo);
- * To form a new non-profit corporation to operate the facility (which would require authority from the General Assembly) (non benefit to the County if this option is chosen);
- * That the County contract with a for-profit or independent non-profit manager on its behalf (recommend that the County contract with a non-profit manager if this option is chosen);
- * That the County sell or lease the facility to a for profit or an independent non-profit entity (recommend that the County not sell or lease to a for-profit entity).

Based on these options Ms. Guth recommended that the County hire a non-profit manager or lease to a non-profit entity. Under each of these options the nursing center employees would be employees of the non-profit entity rather than the County. These options would also also the County to continue to provide needed nursing care to the County's elderly citizens. She further recommended that the County abolish the current advisory board, that it was inappropriate to place operation authority of the nursing home in the hands of a volunteer board.

After discussion Commissioner Brugman moved, seconded by Commissioner Eagan, that staff contact the IRS regarding the Employer Identification Number and to begin looking into establishing procurement procedures for the Nursing Center. Motion carried 3-0-2 with Commissioners Jarboe and Brugman abstaining.

(Commissioner Brugman noted for the record that although he had made the motion that he realized he should not have voted for it because his grandmother is a resident of the nursing center; Commissioner Jarboe abstained because his father is in the nursing center.)

(When questioned as to whether Commissioners Jarboe and Brugman could vote on nursing home issue, County Attorney Durkin gave an analogy that the Commissioners all vote for the property tax, and they all own real estate in the County. He stated that elected officials have a job to do that no one else can do and presents a situation where you have to vote., and that the Commissioners would be obligated to fulfill the duties for which they were elected.)

In conclusion the Commissioners agreed to consider the adoption of the Resolution regarding Nursing Center employees' withdrawal from the State Pension System and to schedule a work session to discuss the other issues and recommendations from Smith,

RURAL LEGACY PROGRAM GRANT APPLICATION

Present: Jon Grimm, Director, DPZ
James Conrad, President, Patuxent Tidewater Land Trust
Donna Sasscer, Agricultural/Seafood Specialist

As a follow up to the January 16 presentation, the referenced individuals appeared before the Commissioners to present the final Rural Legacy Area Application designating Huntersville area on the Patuxent River (approximately 2600 acres) as the Proposed Rural Legacy Area. Mr. Conrad advised that the application, which is due to the State on Friday, will be considered by the State on a competitive basis with other applications from throughout the State.

After discussion Commissioner Jarboe moved, seconded by Commissioner Chessner, to sign the letter to the Rural Legacy Board submitting the Rural Legacy Area Designation and Plan as presented. Motion carried.

PUBLIC HEARINGS

FISCAL YEAR 1998 SUPPLEMENTAL APPROPRIATION S

Present: Steve Welkos, Director of Finance

The Commissioners conducted public hearings on the following Fiscal Year 1998 Supplemental Appropriation Requests:

Department of Recreation and Parks

(in the amount of \$30,000 in state grant funds for the purpose of providing additional staffing, transportation and other services for the Teen Center - After School Program)

Department of Recreation and Parks

(in the amount of \$10,000 in state grant funds for the purpose of initiating a community-based service hub engaging youth in service learning activities in the out-of-school hours)

Marcey House

(in the amount of \$4,986) in state grant funds for the purpose of expanding or enhancing treatment service delivery, and to provide support for services to individuals who are no longer eligible to receive supplemental security income benefits as a consequence of their addiction)

Office of Community Services

(in the amount of \$2,670 in state grant funds to the Office of Community Services for the purpose of expanding and enhancing prevention services at the local level)

SOLID WASTE UPDATE

Present: John J. Kachmar Jr., County Administrator
George Erichsen, Director, DPW
Steve Welkos, Director of Finance

The referenced staff appeared before the Board to present various options (including operating budget costs and revenues and costs recovery through user fees) relative to solid waste and to request the scheduling of a public hearing. Alternatives included:

- * County operates convenience centers seven (7) days; county uses Calvert County transfer station (reduce rubble tipping fee to \$24 pr ton and assess a \$95 fee per year for convenience ceter solid waste residential permits);
- * County operates convenience centers five (5) days; county uses Calvert County transfer station (recue rubble tipping fee to \$24 per tone and assess an \$84 per year for convenience center solid waste residential permits;
- * Charge all residents of the Cuonty a Solid Waste Fee (which would require legislative authority);
- *

During the presentation Mr. Erichsen reviewed previous Resolutions and Ordinances regarding solid waste, provided statistics relative to the number of vehicles entering the tranfser stations, the life of the rubble landfill (approximately two years), referred to correspondance from Calvert County regarding the use requirements for its transfer station, and advised that St. Mary's County landfill is scheduled to close by March 1, 1998.

Other areas of discussion included Recreation and Parks' request to be allowed to bring waste to the transfer station (less than 50 tones per year), other community organizations' request to use transfer station (Christmas in April, etc.), MES's presence at the landfill site as of Janaury 21, the handling of bulk items after the landfill is closed, methods of paying for operation of convenience centers and for paying for debt service

COUNTY COMMISSIONERS

Aquaculture Education Center

Commissioner Chesser stated he was still continuing his research on the possibility of an aquaculture education center.

ADJOURNMENT

The meeting adjourned at 9:30 p.m.

Minutes Approved by Board of
County Commissioners on 2/3/98

Judith A. Spalding
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Recording Secretary