

**ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS' MEETING  
July 14, 1998**

Present: Commissioner President Barbara R. Thompson  
Commissioner D. Christian Brugman  
Commissioner Lawrence D. Jarboe, Vice President  
Commissioner Paul W. Chesser  
Commissioner Frances P. Eagan  
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 the Commissioners' meeting of Tuesday, July 7, 1998, as corrected. Motion carried.**

**APPROVAL OF CHECK REGISTER**

Because of end-of-year closeout, there were no bills this week.

**ADDITIONS/DELETIONS TO AGENDA**

**Commissioner Eagan moved, seconded by Commissioner Jarboe, to accept the agenda as presented. Motion carried.**

**CONSENT AGENDA**

Correspondence to:

1. Stuart M. Lynch concerning State Highway Administration's response to traffic situation at intersection of Route 235 and Oakville Elementary School entrance.
2. Lt. Governor Kathleen Kennedy Townsend relative to juvenile justice issues.
3. Robin J. Shook relative to request for tuition assistance.
4. Various individuals (various letters) relative to the Enhanced 911 Emergency Management System for St. Mary's County.
  - a. Mark Waters, Motorola Inc.
  - b. Leon H. Carrington
  - c. Robert Mann, NAWC/AD
5. Various individuals relative to a special taxing district for Phase II, Wicomico Shores Subdivision.
  - a. Robert G. L. Knapp
  - b. Leo & Elizabeth Levangie
  - c. Carl J. Wessel
  - d. Jim Granum
6. Clare Whitbeck relative to questions concerning rezoning of property along Route 235.
7. Vincent D. Costello concerning surface treatment of roads in St. Mary's County.

**Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve the Consent Agenda as submitted. Motion carried.**

**COUNTY ADMINISTRATOR ITEMS**

Present: John J. Kachmar Jr., County Administrator

1. Employment Contracts /Information Releases
  - a. Mortimer L. Smedley, Assistant County Administrator
  - b. Mary C. O'Brien, Risk Manager

County Administrator introduced Mr. Smedley and Ms. O'Brien to the Commissioners and presented their contracts for approval.

**Commissioner Brugman moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the Employment Contracts for Mortimer L. Smedley, Assistant County Administrator and for Mary C. O'Brien, Risk Manager, and authorized the distribution of the Information Releases. Motion carried.**

2. Easement Agreement between Board of County Commissioners for St. Mary's County and St. Mary's County Metropolitan Commission to allow MetComm access to Airport property in order to maintain and operate the water and sewer facilities on the Airport.

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

3. Grant Documents
  - a. Grant Application - Office of the Sheriff – Local Law Enforcement Grant #3 (federal: \$66,644; local: \$5,405) for acquisition of a fully equipped surveillance vehicle.

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

- b. Grant Renewal Application - Office of Community Services – VISTA Program (federal: \$85,000)

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

4. Department of Recreation and Parks
  - Lease for Piney Point Lighthouse Keepers Quarters
  - Lease for Wicomico Shores Trailer

County Administrator Kachmar presented the referenced leases, but pointed out that there was a problem relative to the Piney Point Lighthouse Keepers Quarters. Testing is being done for lead paint at this facility, and he recommended that the Commissioners defer approval of this lease until the test results are returned.

**After discussion Commissioner Chesser moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Thompson to sign the Lease for the Wicomico Shores trailer, as presented. Motion carried.**

**COUNTY COMMISSIONERS' TIME**

**Co-Location of Health Department and Planning and Zoning**

Commissioner Brugman reported that Mr. Norman Norris, who appeared at the July public forum regarding the referenced project and the impact of traffic on Peabody Street, called him with a proposal for the Commissioners' consideration. Mr. Norris suggested moving these departments to the Governmental Center once the judges vacate the

temporary courthouse, and to move the Board of Education to the Health Department Building. County Administrator Kachmar referred to the space needs of each department, planned moves of departments within County Government, the status of the project (design of the facility), road issues (access and road extension) and budgetary considerations.

In conclusion the Commissioners requested that the Director of Capital Projects come before the Board to discuss this issue so that all options can be explored.

#### **PENDING LIST**

The County Administrator reviewed the current Pending List with the Commissioners; comments included:

**Emergency Radio System** – Commissioner Thompson suggested that once the Negotiations Team submits recommendations to the Commissioners that a public hearing or meeting be scheduled. The Commissioners indicated concurrence with this suggestion.

**Solid Waste Plan** – Quorum problems with the Solid Waste Advisory Committee (which is required to review the plan and make recommendations to the Commissioners).

(Because of time constraints the Commissioners will continue review of the Pending List at a later meeting.)

#### **DEPARTMENT OF PLANNING AND ZONING**

Present: Jon Grimm, Director, DPZ

##### **Anonymous Complaints Policy**

Mr. Grimm submitted and reviewed the redraft of the Anonymous Complaints Policy and stated that he had requested the County Attorney to review the Board's direction to modify the current policy regarding acceptance and processing of anonymous complaints. The Commissioners on April 28 directed that the policy be modified to disclose the identity of the inquirer to the alleged code violator. The County Attorney indicated that the Commissioners have the ability but not the responsibility to protect the names of the complainants; and the Board could adopt a policy to disclose the identity of the inquirer.

Mr. Grimm advised that the revised policy provides (1) that DPZ will not accept anonymous inquiries and (2) that DPZ will not protect the complainant's identity in order to process a violation inquiry. The name will be disclosed through placement of a copy of the inquiry form into the public file, which is available for public inspection.

During discussion Commissioner Thompson requested that a record be kept to see if there is a change in the number of complaints (she was concerned that this policy would inhibit people from filing complaints); Commissioner Eagan concurred stating that she believed there will be fewer complaints because she believed the policy will cut down on frivolous complaints. Commissioner Jarboe suggested that the record be reviewed in six months.

**After discussion Commissioner Jarboe moved, seconded by Commissioner Brugman to accept the revised Anonymous Complaints Policy as presented. Motion carried three to two with Commissioners Thompson and Chesser voting against.**

##### **Sign Regulations (Charitable Organizations)**

Mr. Grimm referred to his June 5, 1998 memorandum to the Board indicating that the draft text amendments were a result of the Commissioners' motion of April 14 to prohibit juvenile detention facilities and to permit certain temporary signs for non-profit and community groups. These amendments were scheduled for a public hearing before the Planning Commission on June 8, but were withdrawn based on concerns raised by County Attorney Durkin by memorandum dated June 10. Mr. Durkin had indicated that revisions could be made, but they would be of such magnitude that it would require rehearing. Mr. Durkin further

indicated that the amendments as requested by the Commissioners could be implemented, but that he would not sign the Ordinance pointing out that his signature was not required. During the discussion Mr. Grimm noted that the entire sign ordinance will be under a complete review and that he did not wish to speak for Mr. Durkin with respect to his concerns, that the Board should hear them directly.

**After discussion Commissioner Eagan moved, seconded by Commissioner Jarboe to submit the text amendments (Section 10.9 – 2. *Private detention centers and juvenile detention facilities are prohibited within all zoning districts; Section 58.32.c(1) including signs displayed on barns, trucks, trailers and similar structures and vehicles*) to the Planning Commission for a public hearing. Motion carried.**

#### Seymour Junkyard Site Plan

Also Present: “Rocky” Rolwand, Chair, Board of Appeals  
Board of Appeals members  
Ann Gregory, adjacent property owner  
Kim Shearin, Assistant County Attorney  
Phil Shire, Planner

As requested by the Board, Mr. Grimm reviewed the process for the Seymour Junkyard site plan, the differences in original site plan, the simplified site plan, and the standard site plan, and provided a chronology of events. He pointed out the irony of this case was that it started as an enforcement action by him in 1991.

Chronology included: the building had been constructed and demolished and expansion of use had been undertaken without appropriate approvals, and he registered a nonconforming use junkyard in a residential area at four acres; applicant appealed action and requested that the entire property (10+ acres) be registered as a nonconforming use; Board of Appeals upheld the four-acre registration; options given to applicant (petition for rezoning to industrial, to file for expansion of nonconforming use, or file for a conforming conditional use); BOA reviewed request for “after-the-fact” action for expansion of the nonconforming junkyard to encompass the entire 10+ acres; the zoning permit for this application stated that the request was for conditional use approval “after-the-fact” and included the entire 10+ acre tract; staff recommended two components that the application did not meet *standards general* for conditional use approval, but recommended that if certain conditions were imposed, it could be approved.

Mr. Grimm submitted copies of (1) the Board of Appeals action of 1992 where the BOA “after-the-fact” approved the conditional use permit to operate the junkyard in a residential town zone; and (2) the most recent action of the BOA which overturned his approval of a simplified site plan. A standard site plan was required, and the applicant submitted it to the TEC in May, received comments from TEC in June, and DPZ is awaiting resubmission of the site plan by the applicant.

Mr. Rowland, Chair of the Board of Appeals, stated that whether there was disturbance of more than 5,000 square feet was not the issue, but that it constituted a significant change in use; that Mr. Grimm’s decision was not within the specifications of the Planning Commission; and that the BOA directed that a standard site plan be submitted instead of a simplified site plan.

Mr. Grimm indicated that in response to concern expressed that he was not following the BOA’s direction, he was following them. He pointed out that the Planning Commission on June 15 delegated all site plan approvals to the planning director in order to streamline the process; however, the TEC in comments of June 16 directed that despite the Planning Commission’s actions, based on the BOA’s action, this plan must be reviewed by the Planning Commission.

Areas of discussion included sediment control; copyright issues (site plan was copyrighted and is available for review, but cannot be copied); and the components of the various site plans.

Ms. Gregory stated that the plan indicates there is less than 5,000 square feet of disturbed land, but that with the grading and other work going on at the site, she disagreed; she questioned the existence of the stormwater management plan (and if it's needed, it should be regulated); indicated that there was not appropriate buffer on the property and it was not shown on the site plan; and that there was not adequate parking.

Mr. Dale Grace indicated that there were not enough parking spaces, and that the parking area was gravel instead of paved.

In conclusion Mr. Grimm agreed to provide the Commissioners with a summary of actions taken in this matter.

#### **BOARD FOR THE COMMUNITY COLLEGE ANNUAL REPORT**

Present: Fred Wallace, Chair  
Other Community College Board members

Members of the Board for the Community College appeared before the Commissioners to presented the Board's 1997 Annual Report. Mr. Wallace reviewed the group's purpose, enrollment statistics, and degrees awarded. Challenges included strains on personnel and facilities because of increased enrollments; year 2000 issues; and the need for secretarial support.

Discussion ensued regarding the secretarial support issue, and the Commissioners suggested using a college intern, advertising on Channel 12 for volunteers, or offering a stipend.

#### **WICOMICO SHORES PHASE II- GOLF COURSE DRIVE EXTENDED**

Present: Larry Petty, MetComm  
Allen Settle, DPW  
Kim Shearin, Assistant County Attorney  
Lot Owners

(The Board of County Commissioners at its meeting of May 12, 1998 took action to abandon the Wicomico Special Taxing District for Phase II, which was adopted by Ordinance and therefore must be rescinded by Ordinance, which requires a public hearing.)

Commissioner Thompson announced that the Commissioners could not conduct the public hearing as previously scheduled because the newspaper did not publish the notice. In addition the agenda that had been faxed to the paper included a statement "public hearing has been postponed because of lack of legal advertisement due to circumstances beyond our control; however, Commissioners will make an exception to normal practices and will permit the public to speak to the Board on this issue." This statement was not included in the publication.

In addition Commissioner Thompson announced that the public hearing had been rescheduled for August 4, 1998 at 3:30 p.m.

The Commissioners inquired whether a submission of a copy of the video tape could be submitted by a speaker and included in the record during the open record period, and agreed to get a ruling from the County Attorney's office.

County Administrator Kachmar gave a briefing on the nature of the special taxing district, problems, and negotiations for sale of shares of Wicomico, Inc. to developers. He advised that Phase II consists of 59 lots, 23 of which are owned by Wicomico, Inc. and explained the funding mechanism to fund the project. Issues included (1) should the County be financing a private developer; (2) should the Commissioners try to resolve the problem for the people who bought homes in Phase II; (3) will there be enough homes to pay for debt service.

Relative to the treatment plant, Mr. Petty stated that the plant as currently built will handle Phase I and II; however, if Phase III goes through, the plant would have to be doubled in size (Phase III, if it should go forward in the future, would include an irrigation system).

At this point the Commissioners allowed members of the audience to speak to the Board on this issue, but emphasized that this was not a public hearing.

**Ralph Schweinfuss (lot owner)** – Pointed out that of the 59 lots in Phase II, 36 were owned by individuals, some of whom have owned their lots for over 30 years; stated that the County should put up the front money as it will be paid back by the property owners. If not the property would be useless.

**Bob Knapp (Lot 26)** – Referred to the “absolute debacle” over the years relative to Wicomico Shores from start to finish. Going forward with Phase II would provide an opportunity to clear up some of this situation. He expressed concern that the property would only be good for a landfill.

**Joan Kirk (Phase I)** – Expressed support for the lot owners in Phase II that the taxing district should continue and stated that the fact that some of the lots are owned by a corporation is irrelevant.

**Shawn Slagle** – Stated that the Commissioners should keep their promise for the establishment of a special taxing district for Phase II.

**William Hulcher** – Stated he sent out petitions to lot owners appealing the decision of the Commissioners to rescind the ordinance establishing the special taxing district. He read letters from various property owners requesting the Commissioners’ reconsideration.

**Robert Welch** – Indicated he was one of the developers interested in acquiring Section III as well as Section II.

**EXECUTIVE SESSION**

**Commissioner Chesser moved, seconded by Commissioner Eagan, to meet in executive session to discuss a matter of Litigation (Ethics Advisory Opinion), as provided for in Article 24, Section 4-210(a)8. Motion carried.**

**Executive Session - Litigation (Ethics Advisory Opinion/Department of Law)**

Present: Commissioner Barbara R. Thompson, President  
Commissioner D. Christian Brugman  
Commissioner Lawrence D. Jarboe  
Commissioner Paul W. Chesser  
Commissioner Frances P. Eagan  
John J. Kachmar Jr., County Administrator  
Mortimer Smedley, Assistant County Administrator  
Kimberly Shearin, Assistant County Attorney  
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a) 8

Time Held: 6:00 p.m. – 6:20 - p.m.

Action Taken: Assistant County Attorney Shearin reviewed a memorandum from the County Attorney and received direction from the Board.

**ADJOURNMENT**

The meeting adjourned at 6:20 p.m.

Minutes approved by the  
Board of County Commissioners on 7/14/98

*Judith A. Spalding*

**Judith A. Spalding, Recorder**