

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
July 28, 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
Mortimer L. Smedley, Assistant County Administrator
Judith A. Spalding, Recorder

CALL TO ORDER

The meeting was called to order at 1:05 p.m.

APPROVAL OF MINUTES

Commissioner Brugman moved, seconded by Commissioner Chesser, to approve the minutes of the Commissioners' meeting of Tuesday, July 21, 1998, as corrected. Motion carried.

APPROVAL OF CHECK REGISTER

Commissioner Eagan moved, seconded by Commissioner Jarboe, to authorize Commissioner Thompson to sign the check register, as presented. Motion carried.

ADDITIONS/DELETIONS TO AGENDA

Commissioner Jarboe moved, seconded by Commissioner Eagan, to accept the agenda as amended (to add an executive session on personnel—Sheriff's Dept.). Motion carried.

CONSENT AGENDA

Correspondence to:

1. Various individuals (same letter) concerning the proposed Wicomico Shores Special Taxing District, Phase II.
 - a. Sara Moon
 - b. Richard Martin
 - c. George W. & Maree F. Loutsch
2. Al Lacer, Esquire, concerning Ordinance 95-13 for Special Taxing District for Golf Course Drive Extension, Wicomico Shores.
3. John Rodriques Jr. concerning the construction of a public swimming pool in St. Mary's County.
4. Erik Jansson, Potomac River Association, concerning energy efficient design of county buildings.
5. Thomas Mattingly, Leonardtown Volunteer Fire Department, relative to facility proposals in the area of Peabody Street in Leonardtown.
6. Patrick Weaver, St. Mary's Hangar's, relative to the role of the Airport Commission.
7. Kathy O'Brien, Walden/Sierra, relative to notice concerning compliance associated with Runaway and Homeless Youth grant award.

8. Robert and Nadine Amos, responding to additional correspondence relative to Wicomico Shores Special Taxing District.
9. Various companies (same letter) extending appreciation for donation in support of Fire/Rescue Appreciation Day.

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

COUNTY ADMINISTRATOR ITEMS

Present: Mortimer Smedley, Assistant County Administrator

1. Department of Public Works Documents – Dillon Court – Tower Estates Subdivision, 4th Election District
 - a. Road Deed for Dillon Court
 - b. Traffic Resolution Nos. 98-11 and 98-12 establishment 25 mph speed limit and stop signs

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

2. Grant Documents
 - a. Grant Application - Office of Community Services
St. Mary's County Youth Service Corps (\$40,000 - federal funding; \$7,000 county funds)

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

- b. Grant Application – Department of Recreation and Parks/St. Clements Museum (mural, professional consulting, moving of Little Red Schoolhouse, sidewalks/parking lot)
State Funding: \$75,000
County: \$2,000
Institute of Museum and Library Services: \$34,075
Foundation of Friends: \$14,000

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

- c. Department of Social Services
Letter of Intent for Endorsement of Service-Linked Housing Grant

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

3. Information Release
Disposal of empty plastic pesticide containers

Commissioner Brugman moved, seconded by Commissioner Jarboe, to approve and authorize the distribution of the Information Release as presented. Motion carried.

4. Memorandum of Understanding
Cost Sharing – Preliminary Planning for Design and Relocation of the Naval Air Museum

The Commissioners indicated that they had a number of questions regarding this project (the location of the museum; concerns about costs over \$100,000; and the fact that the Navy is not participating in the costs).

5. 1999 Legislative Process (Adm. Asst. to BOCC)

The Administrative Assistant to the Board explained the process for the 1999 Legislative Package stating that the Solicitation Memorandum will be distributed, items received, and that because it is an election year, no action will be taken until after the election.

6. Request for Release of Executive Session Minutes by County Attorney

(Memorandum from County Attorney requesting a copy of the 7/14/98 executive session minutes relative to personnel by the Ethics Commission as well as any handouts.)

Assistant County Administrator Smedley read the Commissioners' policy regarding minutes of executive sessions which indicated that only those present for the executive session could review the minutes.

After discussion Commissioner Chesser moved, seconded by Commissioner Eagan, to not waive the policy regarding review of executive session minutes. Motion carried three to two with Commissioners Brugman and Jarboe voting against. (Commissioner Jarboe stated he had no problem with giving the minutes to the County Attorney; Commissioner Brugman stated it would be easier to give him the minutes than to have another executive session.)

The Commissioners indicated that the County Attorney may request an executive session to discuss issues from the 7/21/98 executive session if he so chooses.

7. Letter of Appointment – Commission for Women

Commissioner Brugman moved, seconded by Commissioner Chesser, to approve the appointment of Rosa M. Stone to the Commission for Women with a term to expire 6/30/2001/2006. Motion carried.

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

COUNTY COMMISSIONERS' TIME

Article in 7/24/98 Enterprise newspaper/Zoning Along Route 235

Commissioner Eagan referred to the editorial in the *Enterprise* newspaper regarding the Route 235 rezonings and requested a correction. She indicated that the article infers that the reason the zoning of these properties has been delayed is because a majority of the commissioners remanded the comprehensive plan back to the Planning Commission for a rewrite. Commissioner Eagan stated that it was Jon Grimm who stated publicly that the properties would be rezoned during the comprehensive plan update; however, the way the editorial reads that the delay was because "the county commissioners decided rezoning throughout the County should wait until a new land use plan...was adopted." She requested that the article be corrected.

Commissioner Thompson pointed out that comprehensive zoning is done at the same time as the comprehensive plan update in that it is the basis for new rezonings. She further stated that the property owners had the opportunity from the beginning to go through the rezoning process for their property and they would have had to pay all the fees. It was to their advantage to have it done during the update.

Opticom Priority Control System

Commissioner Jarboe referred to July 13, 1998 correspondence from John Raley, Jr., Mechanicsville Fire Chief requesting assistance in getting the Opticom Priority Control System traffic control along Route 5 in the Charlotte Hall area. He stated that the State Highway Administration is currently doing a study of the traffic situation in the northern end of the County and suggested that a letter be written to SHA requesting inclusion of the Opticom System in that study. The Commissioners gave concurrence with this suggestion.

Fisheries Related Legislation – HB 673

Commissioner Jarboe referred to House Bill 673 which prohibits disruption of a fishing activity while on public land or Maryland waters. He stated there was a cable across the Myrtle Point property, which does not allow access to the water and was of opinion that this bill, which was passed by the Maryland General Assembly and effective June 1, 1998, should apply to this property and other public properties in the County.

The Commissioners agreed to direct staff to get a copy of the full bill and submit it to the County Attorney for interpretation.

**SOUTHERN MARYLAND ELECTRIC
PRESENTATION OF CAPITAL CREDIT CHECK**

Present: Tom Cooksey, SMECO

Mr. Cooksey presented the Commissioners with its capital gains check in the amount of \$6,651.30.

**PUBLIC HEARING – 2:00 P.M.
DEPARTMENT OF PLANNING AND ZONING
WATER/SEWER AMENDMENT – LOVEVILLE/BANNEKER SCHOOL**

All Commissioners were present. DPZ staff present were Jeffrey Jackman, Senior Planner; and Peggy Childs, Recording Secretary. Assistant County Attorney Kim Shearin was also in attendance, as were Tom Russell, Director of Environmental Health; Steve King and Mac Paul, of MetComm; and Robin Guyther, Planner for the Town of Leonardtown.

(Requesting a service category change from NPS (No Planned Service) to RS(e) (Rural Service Area, Environmental Hazard) for certain acres described as Tax Map 25, Block 20, Parcel 85.)

Legal Ad published in The Enterprise on 7/10/98 & 6/17/98

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

#S-1 - July 28, 1998 Staff Report

#S-2 - Colored map of Leonardtown area

Owner/Applicant: St. Mary's County Public Schools

Also Present: Attorney Karen Abrams

Brian Still, Planning/Construction Manager, SMC Co Public Schools

Tony Olson, of Whitman, Requardt & Associates

The subject property was posted by staff on 7/9/98.

This request is to allow a new pumping station, force main and gravity sewerage to correct an environmental hazard and convey wastewater from the Banneker and Loveville schools and the Public Schools Maintenance Facility to the Leonardtown Wastewater Treatment Plant. The Health Department has certified that the existing septic system at the schools is failing. The sewage will be conveyed from the schools through a 3" force main to an 8" gravity line, which will carry it to the existing line near the Leonardtown Shopping Center. The system will be designed to handle a flow of 13,000 gallons per day, or 17 EDUs and will be large enough to accommodate failing systems when identified by Environmental Health. Although

soils between Banneker and Leonardtown are suitable for septic systems and failures are not likely, there is a pocket of houses slightly north of Banneker and Sunnyside Lane which have poor soils, and possible failures there are not totally out of the question.

During the Planning Commission's public hearing on May 26, 1998, the question of increasing the line size to serve private properties along the sewer route was raised. Mac Paul, of MetComm, responded at that meeting that the proposed 3" line would be sufficient to serve more properties; it is the pumping capacity that would have to be increased. However, because of the sensitive area constraints of McIntosh Run, the area is not planned for high-density development and the 1997 draft update of the Comprehensive Plan recommends removing it from the Leonardtown Development District. Following discussion at the hearing, the Planning Commission recommended approval of the proposal with no increase to the size of the proposed line.

By their letter dated July 14, 1998, the Commissioners of Leonardtown have expressed concern regarding any increase to the line to serve future development and requests that a previously discussed septic system alternative on the Long property adjacent to the school be thoroughly investigated prior to pursuing the sewer line alternative. If no alternative is found, the Town recommends the line be sized only to meet the needs of the Board of Education and that other connections be prohibited.

Mr. Still explained that Banneker School will be overcrowded this Fall, and the Health Department will not allow relocatable classrooms until the sewerage problem is solved. Tony Olson, of Whitman, Requardt & Associates, reported regarding the alternative septic system investigated on the Long property, stating it would be more costly because the school would have to purchase eleven (11) acres for the drainfields. Without considering the cost of purchasing the property there would be a difference of approximately \$2,000 between the sewer line and that alternative; however, this would be far outweighed by the costs to maintain it. Mr. Olson recommends the sewer line proposal.

Public comment included those of Town Planner Robin Guyther, who stated the Town is not trying to block the Board and they realize that the schools have a problem, but their biggest concern is regarding the possibility of an oversized line to serve additional development. He said he wanted to make it perfectly clear that the Town would not support the increased line and that the sewer line should be only for the schools and for failing systems. Mr. Guyther also suggested a sewerage easement over the Long property be considered. This would be cheaper than purchasing the property and, because of the depth of the underground lines, would allow agricultural use of the land.

Tom Russell, Director of Environmental Health, advised that a sewerage easement is not what the Health Department prefers to do, if at all possible, because they tend to end up in legal proceedings regarding the restrictions. He said some of the easements they allowed for single-family homes turned out to be a headache and the restrictions were unenforceable.

Engineer Glenn Gass, who said he has been working with Ms. Long to develop a minor subdivision on her property, observed that there are only two properties between the schools and the development district - one owned by Ms. Long and the other by Jim Long, and one owner on the other side of the road. Mr. Gass asked that the Long properties be considered for hookup to the line.

Luchino Stewart, who lives across Route 5 from the school, asked, if the Banneker system is failing, why isn't his system failing right across the road? Mr. Stewart also noted the State Highway Building further north on Route 5 and asked what will happen if the SHA system fails - will the County extend the line again for them? Mr. Russell replied if that happens, they will probably pre-treat to correct it. Mr. Stewart commented that more growth is coming into their neighborhood, but yet the residents are not allowed to develop anything of their own.

Jimmy Long, who lives "at the corner of the school," asked if the line will be large enough for him and the 4-5 homes across Route 5 to be able to connect to it, if their systems fail? Mr. Russell responded in the affirmative, providing those properties have no alternative and meet the regulations. Steve King, of MetComm, stated, however, that they had not really sat down and looked at that. He also pointed out that there is a question of capacity available at the Leonardtown Treatment Plant.

Following public comment, the hearing was closed. The record will remain open for 10 days to allow written comments to be submitted, following which a decision will be made.

Commissioner Thompson stated she felt the Commissioners need time to look at the "big picture" before making their decision.

COPYRIGHT ISSUE/SITE PLANS

Present: Jon Grimm, Director, DPZ
Kim Shearin, Assistant County Attorney

As a follow up to previous discussion relative to the Seymour Junkyard site plan, Mr. Grimm appeared before the Board to discuss the issue relative to the county receiving copyrighted documents. Mr. Grimm referred to the July 13 memorandum from the County Attorney which addressed the conflicts between the copyright law and the Maryland Public Information Act and cites several options and remedies. County Attorney Durkin recommended that the photocopy machine be made available to a citizen requesting copyrighted material, and that government should not make the photocopies. A sign should be displayed warning citizens and employees regarding the copyright laws and penalties.

Mr. Grimm stated that Planning and Zoning may not be the only agency dealing with the copyright issue and suggested getting input from other agencies as well as contacting the two known firms that generate copyrighted materials and see if they have any recommendations.

Discussion ensued regarding this issue (including the public's right to access materials, developing a policy statement on copying these materials; and that Anne Arundel County has a policy to not accept copyrighted material).

In conclusion the Commissioners directed Mr. Grimm to get input from other agencies and recommendations from engineering firms, and return to the Board in three weeks (August 18)

EXECUTIVE SESSION

Commissioner Eagan moved, seconded by Commissioner Jarboe, to meet in executive session to discuss a matter of Personnel (Sheriff's Department), as provided for in Article 24, Section 4-210(a)1. Motion carried three to two with Commissioners Brugman and Jarboe voting against.

Commissioner Eagan moved, seconded by Commissioner Chessser, to meet in executive session to discuss a matter of Personnel (Boards and Committees), as provided for in Article 24, Section 4-210(a). Motion carried three to two with Commissioners Brugman and Jarboe voting against.

Executive Session - Personnel (Sheriff's Department)

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Lawrence D. Jarboe
Commissioner Paul W. Chessser
Commissioner Frances P. Eagan
Mortimer Smedley, Assistant County Administrator
Sheriff Richard Voorhaar
Mac McClintock, Director, DHR
Judith A. Spalding, Recorder

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

Time Held: 4:05 p.m. - 4:32 - p.m.

Action Taken: The Commissioners reviewed a request from the Sheriff's Department regarding promotions and agreed to take action in open session.

Executive Session - Personnel (Boards and Committees)

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Lawrence D. Jarboe
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Mortimer Smedley, Assistant County Administrator
Delores Lacey, Appointments Secretary
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a) 1
Time Held: 4:32 p.m. - 4:59 - p.m.

Action Taken: The Commissioners reviewed the current status sheet, made nominations and gave direction to staff.

**FOLLOW UP TO EXECUTIVE SESSION
SHERIFF'S DEPARTMENT**

Commissioner Chesser moved, seconded by Commissioner Eagan, to authorize a temporary adjustment to the number of correctional officer first class positions from 10 to 13 until such time that the number of correctional officers reverts back to ten either through attrition or promotion. Motion carried.

ADJOURNMENT

The meeting adjourned at 5:05 p.m.

Minutes approved by the
Board of County Commissioners on 8/4/98

Judith A. Spalding
Judith A. Spalding, Recorder