

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
August 18, 1998**

Present: Commissioner President Barbara R. Thompson
Commissioner D. Christian Brugman
Commissioner Lawrence D. Jarboe
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
John J. Kachmar Jr., County Administrator
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 Eagan moved, seconded by Commissioner Chesser, to approve the minutes of the Commissioners' meeting of Tuesday, August 11, 1998 (including the Planning and Zoning portion regarding the water/sewer amendment for Loveville/Banneker School, as presented. Motion carried 4-0-1 with Commissioner Brugman abstaining because he was not present at the August 11 meeting.

APPROVAL OF CHECK REGISTER

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

ADDITIONS/DELETIONS TO AGENDA

Commissioner Brugman moved, seconded by Commissioner Chesser, to accept the agenda as presented. Motion carried.

CONSENT AGENDA

Correspondence to:

1. Various individuals concerning Wicomico Shores Special Taxing District.
 - a. Katharine L. Reed
 - b. James A. Mackey
2. Richard Martin concerning the development of Myrtle Point Park.
3. John F. Richards relative to complaints brought to the attention of the Planning and Zoning Department.
4. Erik Jansson, Potomac River Association, concerning videotape on planning.
5. Roland Benke concerning St. Mary's County Airport.
6. Jack F. Witten, Potomac River Association, concerning various issues.
7. Citizens participating in 31st Annual Blessing of the Fleet at St. Clement's Island.
8. Various entities extending appreciation for contributions to support Fire/Rescue Appreciation Day.

9. Various boards, committees, commissions extending appreciation for the submittal of their Annual Reports.
 - a. Cable Advisory Committee
 - b. So. Md. Resource Conservation and Development Board
 - c. BOCA Code Appeals Board
 - d. Commission on the Environment
 - e. Marcey House Board
10. William McCaffey, Mass Transit Administration, concerning the old So. Md. Railroad right-of-way.
11. Sharon Reichlyn, Maryland Office of Planning, designating Jon Grimm, Director of Planning and Zoning, as the official county designee for matters relating to Census 2000.

Commissioner Brugman moved, seconded by Commissioner Eagan, to approve the Consent Agenda as presented.

Commissioner Chesser requested that Letter No. 6 (to Jack Witten) be pulled. Commissioner Thompson agreed and stated that the response should be an acknowledgement of his letter without trying to respond to all the issues he raised.

Vote on the motion failed two to three with Commissioners Thompson, Eagan, and Chesser voting against.

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. Budget Amendment No. 99-2 - Various Departments
(Reflecting final departmental salary adjustments and COLA distribution)

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

2. Department of Public Works Items
 - a) Traffic Resolution No. 98-13 establishing a Yield Sign on Hodges Court as it intersects with Hodges Lane, 2nd Election District

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

- b) Public Works Agreement Addendum for Barnes Estates Subdivision, extending the completion date to August 1, 1999; backed by a Letter of Credit in the amount of \$21,000 provided by The First National Bank of St. Mary's

Commissioner Chesser moved, seconded by Commissioner Brugman, to approve and authorize Commissioner Thompson to sign the Addendum as presented. Motion carried 4-0-1 with Commissioner Eagan abstaining in that she is on the Board of Directors of The First National Bank of St. Mary's.

- c) Public Works Agreement for St. James Subdivision, 1st Election District; backed by a Letter of Credit in the amount of \$403,300 provided by Crestar Bank.

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

- d) Road Ordinance Policy Statement No. 98-02, Acceleration, Deceleration, and Bypass Lane Clarification to R/12 Standard.

Also Present: George Erichsen, Director, DPW

Commissioner Thompson questioned making revisions to the Road Ordinance through a policy statement and not by Ordinance.

Mr. Erichsen explained that the Ordinance is divided into two sections and the Policy section provides flexibility to change standards part of the Ordinance.

After discussion Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Road Ordinance Policy Statement as presented. Motion carried.

3. SMECO Easement Agreement for St. Mary's County Airport

Also Present: Jim Haley, Director, Office of Central Services
Jim Stirling, Director, Office of Capital Projects

County Administrator Kachmar advised that FAA has questioned the language in the standard SMECO easement agreement because of risks involved if in the future the easement would have to be removed; however, SMECO was not in favor of changing the language. Areas of discussion included the County Attorney's opinion that the language should be changed; FAA's request to review and approve assignments to another entity; and FAA's concerns regarding a statement in the agreement about construction in the easement of an underground utility.

After discussion Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the Easement as presented. Motion carried.

4. Memorandum of Understanding Among State of Maryland; St. Mary's County; and Local Management Board of St. Mary's County, Inc.

Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and authorize Commissioner Thompson to sign the Memorandum of Understanding as presented. Motion carried.

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

As a follow up to previous discussion County Administrator Kachmar responded to concerns addressed by the Commissioners regarding location of the facility and language in the MOU relative to responsibility of the County for costs beyond \$100,000 (the county had agreed to match the State's \$50,000).

Mr. Kachmar explained that the Navy owns the aircraft and that the museum must be located in close proximity of the Naval Air Station, and if the museum is located on private property, the aircraft has to be on government land. The infrastructure committee is looking at a number of locations, and is not ready at this time to make a recommendation.

During discussion of the MOU Commissioner Eagan suggested that it be amended to include language similar to the State's regarding financial responsibility (it should state that the amount to be provided by the County should not exceed \$50,000).

The County Administrator agreed to have the MOU amended and would resubmit it to the Board for approval.

6. Grant Agreement - Office of Community Services
(VISTA Mileage Expenses - \$3,000 – federal funding)

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

7. **Walden Sierra Grant Modification Application
Domestic Violence – (State funding - \$7,055)**

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

8. Employment Contract – Director, Recreation and Parks

As a follow up to the April 21 action by the Board, Commissioner Chesser moved, seconded by Commissioner Eagan, to authorize Commissioner Thompson to sign the Employment Contract as presented. Motion carried four to one with Commissioner Brugman voting against.

9. FDR Boulevard – Financing Plan

County Administrator Kachmar updated the Commissioners on the potential financing plan for FDR Boulevard. At a meeting with the County's financial advisor, several funding options were discussed including impact fees. Mr. Kachmar further stated that the Department of Economic Development should be involved in this process.

In conclusion Commissioner Brugman suggested, that in light of Senator Dyson's proposed legislation regarding the prohibition of building in the railroad right-of-way, the County Administrator inform Senator Dyson that a portion of the FDR corridor is in the right-of-way.

NURSING CENTER - ANNUAL REPORT

Present: Lynne Delahay, Chair

Ms. Delahay presented the 1997 Annual Report of the Nursing Center Board. The report included the Board's Mission Statement; Purpose; Significant Activities for the Past Year; and Problems and Challenges (the need for clarification of the role of the advisory board in the functioning of the Nursing Center); and Plans for the Current Year.

Areas of discussion included the need for orientation of new board members and quarterly reports.

In conclusion the Commissioners requested that the Nursing Center Board update its bylaws for review by the Board.

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

HUMAN RELATIONS COMMISSION - ANNUAL REPORT

Present: Valentino Ojo, Chair

Mr. Ojo appeared before the Board to present the 1997 Annual Report of the Human Relations Commission. The report included the Purpose of the Commission; Significant Activities; Problems and Challenges (including the need for training, particularly in the area of mediation).

Areas of discussion included the number and types of cases handled by the Human Relations Commission and how the cases are handled and resolved.

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

**PATUXENT RIVER COMMISSION
CUCKOLD CREEK WATERSHED PROJECT BRIEFING**

Present: Mary Lorsung, Chair, Patuxent River Commission
Beth Hickey
Al Stewart
Sue Veith
James Bean

Representatives of the Patuxent River Commission (PRC) appeared before the Board to discuss the gully erosion problem occurring at Cuckold Creek Watershed. Mr. Lorsung explained the composition, mission, and major tasks of the PRC. Relative to Cuckold Creek, she advised that a forum was held July 21 to discuss possible solutions.

Mr. Stewart explained that the gullies are a result of stormwater runoff from agricultural lands, developments and road culverts adjacent to the slopes that the soils are highly erosive, and that the slopes range from 10 to 35 feet. A subcommittee has been formed to address two areas: (1) funding to fix the problem; and (2) development of a system to prevent gullying from intensifying.

Ms. Hickey reviewed the agenda of the July 21 meeting (addressing the problem and advantages and disadvantages of available tools to remediate the problem. She advised that another meeting is planned for the fall to discuss costs and responsibilities.

**DEPARTMENT OF PLANNING AND ZONING
(COPYRIGHT ISSUES – OPTIONS/RECOMMENDATIONS)**

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

As a follow up to a previous discussion, Mr. Grimm appeared before the Board to provide options/recommendations relative to subdivision plat copyright issues. He stated that he received ten responses to the survey on the draft County Copyright Policy. Ranges of Options went from **No Copyright Protection – Ban it from public files** to **Accepting copyright but require a waiver/accept copyrighted plans but require “hold harmless agreement”** to **No reproduction of copyrighted materials even in public files.**

Assistant County Attorney Shearin stated that she would have to look into whether the County could require a “hold harmless” agreement.

Staff will continue to review options and return to the Board with a recommendation in two weeks (September 1).

CENSUS 2000

Present: Jon Grimm, Director, DPZ
Mary Hayden, Planner, DPZ
Judy Pedersen, Information Officer

The referenced individuals appeared before the Board to provide an overview of the *Census 2000*, the basic goal of which is to count all persons who are residents of the United States. “Census Day” will be on April 1, 2000 and April will be “Census Month.” All households will receive questionnaires to be returned to the Census Bureau.

Mr. Grimm explained that staff is working to develop a range of public outreach activities in order to promote a full and complete census count. A complete count is important because it results in grant and program funding.

Mr. Grimm requested the Commissioners to designate the Department of Planning and Zoning as the official contact in matters relating to Census 2000 as well as a "complete count committee", which will be used to disseminate public information.

The Commissioners advised that they signed a letter earlier in the meeting to designate DPZ as the official contract, and they indicated that they would consider appointments during their next board and committee appointment discussion.

**WICOMICO SHORES SPECIAL TAXING DISTRICT
GOLF COURSE DRIVE EXTENDED
RESCISSION OF ORDINANCE ESTABLISHING DISTRICT
DISCUSSION/DECISION**

As a follow up to the August 4, 1998 public hearing, the Commissioners commenced discussion relative to the possible rescission of the Ordinance establishing the Wicomico Shores Golf Course Drive Extended Special Taxing District.

Commissioner Chesser moved that the County rescind the vote taken by the Board to rescind the Ordinance establishment of the special taxing district for Phase III of Wicomico Shores. Motion failed for lack of a second.

Commissioner Jarboe referred to a resident's concern that there is no longer a boat ramp at Wicomico Shores; that the County received a letter from the developer expressing willingness to work with the County, yet there is "nothing on the table" from him indicating he would work with the County; and, therefore, he would not vote on the taxing district until the boat ramp is put back at Wicomico Shores.

Commissioner Eagan requested a commitment from the majority of the Board of Commissioners that they would move forward to also establish a special taxing district for Phase III. She stated that she was holding her vote for Phase II unless there was a commitment to *move forward for a special taxing district for Phase III if it met legal requirements and the citizens wanted it.*

Commissioner Thompson stated that this Board approved the establishment of Phase II in 1995, and that she was not opposed to *considering* Phase III, but believed it should go through the appropriate process and information provided to the Board.

Commissioner Chesser advised that he was in agreement with approving Phase III taxing district after its submission.

No further motion was offered.

EMERGENCY RADIO SYSTEM NEGOTIATION TEAM REPORT

Request for Executive Session

Commissioner Chesser moved, seconded by Commissioner Thompson, to meet in Executive Session to discuss a matter of potential litigation (MCI proprietary information regarding proposed solutions), as provided for in Article 24, Section 4-210(a)8. Motion carried four to one with Commissioner Brugman voting against.

Discussion ensued as to the justification of the executive session, and Ms. Shearin explained that there was confidential information being discussed, which if disclosed could open the County to potential litigation. She pointed out that the liability would actually become individual liability.

Executive Session - Potential Litigation (Emergency Radio System)

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 Attorney
Mortimer Smedley, Assistant County Administrator
Judith A. Spalding, Recorder

(Also present: Jim Haley, Dir., Office of Central Services; Melvin "Mac" McClintock, Dir., DHR, Sheriff Richard Voorhaar; "Rusty" Malone, Sheriff's Dept.; Steve Welkos, Dir. of Finance; Paul Wible, Dir., EMA; Kim Shearin, Asst. Co. Atty.; Ann Anderson, MIS Manager; Jim Sterling, Dir., Capital Projects (attended from 5:35 p.m. - 5:55 p.m.)

Authority: Article 24, Section 4-210(a) 8
Time Held: 4:45 p.m. - 7:35 - p.m.

Action Taken: Staff reviewed with the Commissioners confidential information regarding the emergency radio system proposal by MCI, and the Board gave direction to staff.

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Follow Up to Executive Session

Commissioner Brugman moved, seconded by Commissioner Chesser, to direct staff to continue negotiations with MCI and to request their best and final offer because the first offer was unacceptable. Motion carried.

Commissioner Brugman moved, seconded by Commissioner Chesser, to direct staff to report back to the Board of County Commissioners with those figures in two weeks. Motion carried.

COUNTY COMMISSIONERS' TIME

Lexington Park Rescue Squad - Loan Request

Also Present: Steve Welkos, Director of Finance

Commissioner Eagan advised that the Lexington Park Rescue Squad had requested money through the loan revolving fund for their building and inquired as to the process for the Squad to get the funding.

Mr. Welkos explained that funds in the amount of \$1M were appropriated in the Fiscal Year 1999 budget. Funds had not been appropriated in past years; therefore, a formal application process needs to be developed (including setting of interest rates) and presented to the Commissioners in conjunction with communicating with the Emergency Services Committee.

Discussion ensued regarding the requirement of an audit (that the County needs satisfaction that the company can pay back the money).

Commissioners' Meetings

September 15, 1998 (Primary Election) and November 3, 1998 (General Election)

Commissioner Eagan stated there were five meetings in September and that September 15 is Primary Election Day. Commissioner Thompson responded that the Commissioners' meeting has been cancelled for that day.

Regarding the November 3 meeting, the Commissioners agreed to meet in the morning at 9 a.m. for administrative items only.

Prohibition of Abortion Clinics

Commissioner Jarboe requested discussion, including legal issues, on the prohibition of abortion clinics in St. Mary's County through the Zoning Ordinance. He pointed out that there were prohibitions for floating homes and oil refineries and a proposal for the prohibition of juvenile and adult detention centers.

Commissioner Thompson responded that the issue should be research prior to being brought to the table for discussion. Commissioner Jarboe requested the County Administrator to look into this research.

ADJOURNMENT

The meeting adjourned at 7:55 p.m.

**Minutes approved by the
Board of County Commissioners on 8/25/98**

Judith A. Spalding

Judith A. Spalding, Recorder