

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
September 1, 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 1:10 p.m.

APPROVAL OF MINUTES

Commissioner Chesser moved, seconded by Commissioner Eagan, to approve the minutes of the Commissioners' meeting of Tuesday, August 25, 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 Brugman moved, seconded by Commissioner Chesser, to accept the agenda as amended (to add two executive sessions (potential litigation – airport; and property disposition; and to add a discussion regarding Lexington Park Senior Housing; and to add the appointment to the Metropolitan Commission). Motion carried.

CONSENT AGENDA

Correspondence to:

1. Various legislators requesting financial support for METCOM related to costs incurred for relocation of existing sewer and water lines necessitated by the widening of State Route 235.
 - a. Governor Parris N. Glendening
 - b. Senator Roy P. Dyson
 - c. Delegate Anthony J. O'Donnell
 - d. Delegate John F. Slade III
 - e. Honorable John F. Wood
2. Various legislators requesting support for the proposed development of a hotel/conference center at Tudor Hall Village in Leonardtown.
(same addressees as above)
3. Maryland Office of Planning, Clearinghouse Review Unit, concerning Application (#MD980805-0832) of the MD Dept. of Natural Resources for SMECO easement for a tenant house in Greenwell State Park.
4. Zoning Board of Appeals expressing appreciation for the presentation of their Annual Report.
5. Jeremy Olsen congratulating him on the occasion of his award to the rank of Eagle Scout.
6. Erik Jansson, Potomac River Association, acknowledging receipt of correspondence.

7. J. L. Hearn, Water Management Administration, MDE, concerning delegation of erosion and sediment control authority.
8. James Shelton relative to the Wicomico Shores Special Taxing District, Phase II.
9. Citizens welcome letter to be included in the St. Mary's County Rotary Guide.
10. John A. Candela, Economic Development Commission, relative to concerns about the adoption of the Comprehensive Land Use Plan.

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

COUNTY ADMINISTRATOR ITEMS

1. Grant Documents
 - a. Department of Economic Development - Grant Application
Resolution No. 98-39 - MILA
Revolving Loan Fund Program through MD Dept. of Business and Economic Development (\$250,000 State Funding; Local March through Dept. of Social Services and in-kind)

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

- b. St. Mary's County Housing Authority
Letter of Intent to Community Development Administration for the 1999 Maryland Housing Rehabilitation Program totaling \$21,322.

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

2. Department of Public Works Items
 - a. Temporary Easement Agreement - Half Pone Point Revetment Project

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

- b. Public Works Agreement for Rue Woods Subdivision, 8th Election District; backed by Letter of Credit with First National Bank of St. Mary's in the amount of \$163,200

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

- c. Essex South Subdivision, 8th Election District
 - (1) Road Deed for Planters Court, Settlers Place and Carriage Post Place
 - (2) Road Resolution R98-14 and R98-15 establishing speed limits and stop signs

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. Quit Claim Deed between Wicomico, Inc. and Board of County Commissioners for St. Mary's County for Golf Course Drive Extended.

Commissioner Chesser moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the Quit Claim Deed as presented. Motion carried.

4. Mental Health Authority of St. Mary's, Inc.
Fiscal Year 2000 Mental Health Plan

Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve the Mental Health Plan and sign and forward the letter to MHA as presented. Motion carried three to two with Commissioners Thompson and Chesser voting against. Commissioner Thompson stated that there should be a public hearing prior to approving the Plan as suggested in the letter from MHA. Commissioner Eagan suggested that MHA conduct its own hearing.

5. Resolution – Comprehensive Water and Sewer Amendment
(Case No. 98-0730 Loveville/Banneker Schools)
(follow up to July 28 public hearing and August 11 motion)

Also Present: Jon Grimm, Director, DPZ

Commissioner Eagan moved, seconded by Commissioner Chesser, to approve and sign the Resolution approving the amendment to the Comprehensive Water and Sewer Plan for Case No. 98-0730 as presented.

Discussion ensued as to whether signing of the Resolution would mean that the taxpayers would be subsidizing the water/sewer facilities for the developer of the lot at Route 5 and 234; whether it was clear that the Resolution only provided water/sewer to Banneker/Loveville; the fact that other property owners along the line would not be allowed to hook up.

After discussion the Commissioners directed the Director of Planning and Zoning to rewrite the Resolution to make its intent clearer and resubmit it to the Board for action.

Vote on the motion was 0 – 5 (all Commissioners voted against).

6. Library Site Selection Committee
(Membership Discussion)

As a follow up to previous discussions, the County Administrator requested the Commissioners to provide names of individuals to serve on the Library Site Selection Committee. Appointments by the Commissioners: Commissioner Eagan: Todd Morgan; Commissioner Chesser: Robert Lewis. (Commissioners Thompson, Brugman and Jarboe will submit the names of their appointees later in the week.)

During discussion Commissioner Thompson requested a Resolution setting for the tasks and responsibilities of the Task Force. Staff agreed to prepare a Resolution for next week's meeting.

7. Fee Proposal
Land Development Code/Comprehensive Plan
(Update on Costs)

Also Present: Jim Haley, Manager, Office of Central Services

In response to request by the Board, Mr. Haley provided an amended Scope of Work and costs for the Land Development Code to also include the seven concerns of the Board of County Commissioners. The total cost for the project is \$368,790 (Land Development Code - \$223,350; Comprehensive Plan Review and Rewrite of BOCC's Seven Concerns - \$145,440). Mr. Haley advised the Board that because there is no appropriation for this project, the Commissioners will have to conduct a Supplemental Appropriation public hearing.

After discussion Commissioner Eagan moved, seconded by Commissioner Brugman, to request the consultant to proceed with the Land Development code and Comprehensive Plan (the BOCC's seven concerns). Motion carried three to two with Commissioners Thompson and Chesser voting against. (Commissioner Thompson stated she would rather have had the motion separated into two motions in that five (5) of the Commissioners' concerns regarding the Comprehensive Plan have been addressed; Commissioner Chesser expressed concerns relative to the costs.)

Commissioner Eagan moved, seconded by Commissioner Brugman, to move forward with a supplemental appropriation public hearing. Motion carried three to two with Commissioners Thompson and Chesser voting against. (Commissioner Thompson stated she was voting against because she did not know the source of funds for this project.)

8. Wicomico, Inc.

County Administrator Kachmar referred to the August 26 letter from the firm of Dugan and McKissick, representatives of Mr. Welch and Mr. Samperton, who are currently negotiating for the purchase of 260 lots in Wicomico Shores. The letter indicates that Mr. Welch and Mr. Samperton intend to develop a working relationship with the County and neighbors, and that if they can acquire the property, they will dedicate the parking area to the County for public use.

After discussion the Commissioners directed Mr. Kachmar to wait until Welch and Samperton completed their transaction before working with them regarding the parking area.

**DEPARTMENT OF PLANNING AND ZONING
COPYRIGHT ISSUES**

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

As a follow up to previous discussions, the referenced individuals appeared before the Board to discuss options for handling of copyrighted materials (subdivision plats). Options included waiver of reproduction ban; hold harmless agreement to protect the county from litigation; or having a copy machine available with a sign indicating that the County is not responsible for any violation of copyright laws.

After discussion Commissioner Jarboe moved, seconded by Commissioner Eagan, to direct staff to draft a waiver policy regarding reproduction of plans. Motion carried.

LEXINGTON PARK SENIOR APARTMENTS

Present: Cliff Singleton, Sponsor for Lexington Park Apartments
Douglas Durkin, County Attorney

Mr. Singleton appeared before the Board to request consideration for either a reduction (payment of 25% of taxes for the first ten years) or a payment in lieu of taxes for the referenced Lexington Park Senior Apartments. He stated that he is applying to the State for tax exempt bonds along with a tax credit for the project. During his presentation Mr. Singleton provided the Board with schematic drawings of the apartment project, a 110-unit development located on Pegg Road.

Mr. Durkin stated that he had been requested to look into the possibility of payment in lieu of taxes, and he determined that Mr. Singleton would have to submit an application and present to county staff as to which of the five eligibility criteria the project would qualify. (Mr. Singleton indicated he has to have his application to the State by the end of September.)

After discussion staff agreed to work with Mr. Singleton and his attorney to see if the project will qualify.

**METROPOLITAN COMMISSION
APPOINTMENT**

Commissioner Eagan moved, seconded by Commissioner Jarboe, to appoint Joseph Gilbert Murphy to the Metropolitan Commission for a term to expire December 31, 2001. Motion carried.

COUNTY COMMISSIONERS' TIME

Administrator's Report

Commissioner Thompson questioned the program that has been advertised in the County employees' newsletter "Team Dispatch"—*Administrator's Report*. Mr. Kachmar

responded that this program had been discussed several months ago, and that it would be interviews with department heads about their programs.

**EXECUTIVE SESSION
PROPERTY DISPOSITION**

Commissioner Chesser moved, seconded by Commissioner Eagan, to meet in executive session to discuss a matter of property disposition. Motion carried four to one with Commissioner Brugman voting against.

Executive Session – Property Disposition

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 L. Smedley, Assistant County Administrator
Douglas S. Durkin, County Attorney
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a) 11

Time Held: 3:15 p.m. – 3:40 p.m.

Action Taken: The County Administrator apprised the Commissioners of an offer regarding a property exchange, and the Board gave direction to staff.

EMERGENCY RADIO SYSTEM DISCUSSION

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 three to two with Commissioners Eagan and Jarboe voting against.

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
John J. Kachmar Jr., County Attorney
Mortimer Smedley, Assistant County Administrator
Jim Haley, Director, Office of Central Services
Melvin "Mac" McClintock, Director, DHR (entered session as 4:25 p.m.)
Sheriff Richard Voorhaar
"Rusty" Malone, Sheriff's Department
Steve Welkos, Director of Finance
Paul Wible, Director, Emergency Management
Ann Anderson, MIS Manager
Judith A. Spalding, Recorder

(Commissioner Frances P. Eagan did not participate in the session because she felt that there should not be an executive session to include discussion of costs other than MCI's)

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

Time Held: 3:50 p.m. – 4:40 - 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.

Follow Up to Executive Session

Emergency Radio System

Present: Negotiating Team Members:
Jim Haley, Director, Office of Central Services
Melvin "Mac" McClintock, Director, DHR
Sheriff Richard Voorhaar
"Rusty" Malone, Sheriff's Department
Paul Wible, Director, Emergency Management
Ann Anderson, MIS Manager
Larry Consalvos, MCI
Ty Hughes, MCI
Other representatives from MCI

Mr. Haley advised that it was the negotiating team's recommendation, after review of MCI's final solution for providing emergency radio system for St. Mary's County, was to reject MCI's best and final offer of \$31,937,251 in that it can be implemented more effectively in other ways.

Commissioner Chesser moved, seconded by Commissioner Brugman, to accept the recommendation of the negotiation team to reject MCI's proposal.

Areas of discussion included:

- Whether MCI's equipment component of the proposal could be accepted and using county staff rather than privatization;
- Whether deviating from the original scope of work (only accepting certain components) was legal (county attorney's office will research this issue);
- Whether the reduction in the original proposal by MCI reduced services (e.g., technology refreshments, etc.);
- Whether there was a emergency radio system proposal if the County rejects MCI's offer;
- The time it would take if the project was to be rebid;
- Whether the figures from the County's proposal could be made public (Mr. Haley explained that a portion of the County's figures used MCI's figures, and because MCI's figures were proprietary information, they cannot be released);

During discussion representatives from MCI explained the history of the project, their study of the county's system, and the solution (and what factors went into putting the proposal together (including risk profiles and guarantees), and the fact that there were no actual "face-to-face" negotiations between the two teams (MCI's and the County's). Mr. Hughes suggested: (1) that the County require the negotiation team to negotiate identify points of differences and try to reconcile them with MCI; and (2) to get legal opinion with regard to whether individual pieces can be broken out.

Commissioner Brugman stated he would not vote for the motion until there were "real" negotiations, and that he was comfortable with the decision being made.

Mr. Kachmar suggested that the Commissioners consider hiring a professional negotiator.

Commissioner Thompson inquired of the County Attorney whether the County could legally take out the personnel from MCI's proposal and if this would make it an uneven playing field if all of the pieces were not part of original proposal. County Attorney Durkin stated he would research this question. Mr. Haley was also directed to look into this issue.

Vote on the main motion was one to four with Commissioners Thompson, Brugman, Eagan, and Jarboe voting against. Commissioner Chesser stated that the Commissioners should accept the recommendation of the negotiating team.

In conclusion the Commissioners directed the negotiating team to work and negotiate with MCI representatives. A report will be prepared showing areas of agreement and areas of disagreement. If there are technical questions, the Commissioners requested that they contact the appropriate technical people. The negotiating team is to return in three weeks with a report.

(Commissioner Brugman left the meeting at 6:15 p.m.)

EXECUTIVE SESSION

POTENTIAL LITIGATION – ST. MARY’S COUNTY AIRPORT

Commissioner Chesser moved, seconded by Commissioner Eagan, to meet in executive session to discuss a matter of potential litigation. Motion carried.

Executive Session –Potential Litigation (St. Mary’s County Airport)

Present: Commissioner Barbara R. Thompson, President
 Commissioner Lawrence D. Jarboe
 Commissioner Paul W. Chesser
 Commissioner Frances P. Eagan
 John J. Kachmar Jr., County Administrator
 Mortimer L. Smedley, Assistant County Administrator
 Douglas Durkin, County Attorney
 Mary O’Brien, Risk Manager
 Jim Haley, Airport Manager
 Cynthia Dykeman, Airport Operations Coordinator
 Judith A. Spalding, Recorder

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

Time Held: 6:15 p.m. – 6:45 p.m.

(Commissioner Eagan left the meeting at 6:45 p.m.)

PUBLIC HEARING

ROAD NAME CHANGES

Present: Jeff Jackman, Department of Planning and Zoning

Mr. Jackman read the notice of public hearing and advised that the notice was published in the August 14 and 21 editions of *The Enterprise* newspaper.

The Commissioners conducted a public hearing on the following road name petitions:

- Change Pickett court to Pickett’s Harbor Court (located off of Long Lane in Pickett’s Harbor Subdivision);

(No comments received)

- Change Egeli Way to Glebe Lane (located off Piney Point Road)

(No comments received)

Change Myrtle Way to Max Way (located on right off Myrtle Point Road)

Mr. Jackman advised that three of the five property owners signed the petition; however, a determination is needed during the ten day open record period whether the fifth property owner should have signed the petition. He stated that the road was Max Way in 1996 and was changed through the road naming process to Myrtle Way, and the recent petition requested it to be named back to Max Way.

A letter dated August 26 was received from Dale Rebarchick stating that the road should not be changed to Max Way, that it should remain Myrtle Way.

Maxine Nye stated that when it was changed to Myrtle Way only two people signed the petition, and that she had been told you had to have a majority in order to get it changed. She requested that it remain as Max Way.

Dale Rebarchick spoke in opposition to Max Way and presented letter from Walter Hatch expressing opposition to change the road to Max Way.

Hearing no further comments, the record will remain open ten days for written comment.

PUBLIC FORUM

The Commissioners conducted a public forum accepting questions and comments from the audience and via telephone.

Joseph Seeley - Clarified his comments of July stating he questioned why DPZ recommended granting a variance with a slope greater than 25% when their review only consisted of a "drive-by." If DPZ can't do the work the Commissioners should get someone who can.

Kathleen Suite (Right to Life) - Provided statistics on the numbers of increased abortions in St. Mary's County; there are overpayments for abortions; the large number of repeat abortions; expressed concern regarding parental notification (that the doctor will only notify parents if he/she feels it is in the parent's best interest); will be requesting legislators to address the issue; and that the Commissioners should not provide resources for funding abortions.

Claire Whitbeck - Requested the status of the Willows Road Park. (Commissioner Jarboe advised that it is currently before the Recreation and Parks Board.)

Shelby Guazzo - Questioned the costs for having a consultant do the Comprehensive Plan; questioned the process for hiring a consultant. (County Administrator Kachmar explained the process and pointed out that a public hearing will be scheduled for a supplemental appropriation.)

Ken Hastings - Questioned the necessity of having a public hearing aside from the legal requirement since the Commissioners will approve the appropriation, and that the next board will have to live with this decision.

Robert Lewis - Questioned Commissioner Jarboe relative to the map published in *St. Mary's Today* that identified citizens in the Myrtle Point area to look at possible conflicts of members of the Myrtle Point Task Force; that the members were appointed because of interest and to get input from the neighborhood; referred to columns written by Commissioner Jarboe regarding the membership and his comments as to whether some of the neighbors were trying to keep certain people out of the park.

Terry Miller - Clarified the issue regarding the granting of variances stating that DPZ does have the authority to approve limited variances; Regarding Comprehensive Plan, Mr. Miller stated that the County was way behind in its completion.

Issues addressed via telephone calls included flooding on Army Navy Drive; MCI's emergency radio system proposal; Myrtle Point Task Force.

ADJOURNMENT

The meeting adjourned at 8:30 p.m.

Minutes approved by the
Board of County Commissioners on 9/8/98

Judith A. Spalding
Judith A. Spalding, Recorder