

**ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**November 10, 1992**

**Present:** Carl M. Loffler, Jr., President  
W. Edward Bailey, Commissioner  
Robert T. Jarboe, Commissioner  
John G. Lancaster, Commissioner  
Barbara R. Thompson, Commissioner  
Edward V. Cox, County Administrator  
Judith A. Spalding, Recording Secretary

**CALL TO ORDER**

The meeting was called to order at 9:05 a.m.

**APPROVAL OF MINUTES**

Commissioner Thompson moved, seconded by Commissioner Bailey, to approve the minutes of the Commissioners' meeting of Tuesday, October 27, 1992, as corrected. Motion carried.

**APPROVAL OF BILLS**

Commissioner Bailey moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the Check Register as presented. Motion carried.

**FERST LAND CLEARING DEBRIS LANDFILL  
CONFIRMATION OF COMMISSIONER ACTION**

On Tuesday, October 27 Commissioners Bailey, Jarboe, and Lancaster agreed to sign and forward letters responding to several individuals concerns regarding the land clearing debris landfill application filed by Forest Products Recycling Facility (FERST) of St. Mary's. The letter summarized the authority of County Commissioners and other entities in zoning and environmental matters as specified in state and county law.

**COUNTY ADMINISTRATOR ITEMS**

**Present:** Edward V. Cox, County Administrator

- 1) **Job Training Partnership Act  
Service Delivery Area Configuration**

In response to October 29 correspondence from the Governor's Workforce Investment Board, the County Administrator presented correspondence indicating that St. Mary's County is satisfied with the current grouping of its local jurisdiction, which includes Calvert, Charles, and St. Mary's Counties.

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

- 2) **Board of Education - Capital Improvement Program**

**Also Present:** Charles Wade, Director of Finance

As a follow up to the October 20 joint meeting, Mr. Wade presented correspondence addressed to the Board of Education listing the Commissioners' objectives for capital projects for public schools. The letter requests the Board of Education to place each of its projects within one of four categories, with specific justifications for each.

Commissioner Bailey moved, seconded by Commissioner Thompson, to sign and forward the letter as presented. Motion carried.



**3) Budget Amendments**

The County Administrator presented the following Budget Amendments recommended for approval by the Director of Finance with the justifications as indicated:

**No. 93-17**

**Director of Finance**

Justification: To fund anticipated self-insurance expenses (\$12,134)

**No. 93-18**

**Sheriff**

Justification: To make adjustments for first round of State Budget reductions (\$90,261).

**4) Charles County Community College Board of Trustees**

As a follow up to previous discussion regarding an item in the County's Legislative Package, the County Administrator presented correspondence addressed to Calvert County Commissioners regarding the Community College Advisory Board's request to seek representation on the Charles County Community College Board of Trustees. The letter indicates St. Mary's County's agreement and seeks concurrence from Calvert County.

**Commissioner Bailey moved, seconded by Commissioner Thompson, to sign and forward the letter as presented. Motion carried.**

**5) Clearinghouse Project No. MD921021-0963  
Fiscal Year 1993 Federal Aid Highway Program**

The County Administrator presented the referenced clearinghouse project and recommended that it be forwarded to the State with the comment that the project is consistent with the County's plans, programs, and objectives.

The Commissioners gave their concurrence.

**6) INFORMATION RELEASE**

The County Administrator presented the referenced Information Release regarding a conference call with the EPA, MDE, Southern Maryland Wood Treatment Plant Task Force, Environmental Awareness Coalition, the media and other interested parties scheduled for November 18 at 1:00 p.m.

The Commissioners agreed to distribute the Information Release.

**7) Homeless Service Program/Eviction Prevention Program  
Notification of Grant Award**

The County Administrator presented the following Notification of Grant Award for the Homeless Service Program in the amount of \$58,000 for Fiscal Year 1993. The Program is administered through the Department of Social Services and no county funds are involved.

**Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign the Notification of Grant Award as presented. Motion carried.**

**PROCLAMATION  
YOUTH APPRECIATION WEEK**

The Commissioners presented the referenced Proclamation designating the week of November 8 - 14, 1992 as Youth Appreciation Week in St. Mary's County.



**BALTIMORE GAS AND ELECTRIC**

Present: John Smith, Public Affairs, BG&E  
Charles Cruse, Plant Manager  
Greg Rudigier, Emergency Planning

**Calvert Cliffs Update**

The referenced individuals appeared before the Commissioners to present an update on the emergency planning system for Calvert Cliffs. Mr. Rudigier explained the County's and BG&E's responsibilities, the four levels of emergencies (unusual event, alert, site emergency, and general emergency), activation of sirens, and emergency broadcast radio stations. Mr. Smith reported that in September the first issue of a newsletter was distributed explaining projects and activities at the Calvert Cliffs Plant.

**Presentation of Check to Marcey House**

Also Present: Larry Harvey, Director, Marcey House

As a follow up to the challenge offered by BG&E for Marcey House to raise an additional \$10,000, Mr. Cruse of BG&E presented a check in the amount of \$2,500 to match the previously donated \$2,500 to Mr. Harvey for Marcey House.

**DIRECTOR OF FINANCE**

Present: Charles Wade, Director of Finance

**1) Fiscal Year 1994 Budget Instructions**

Mr. Wade presented a memorandum to All Spending Units pointing out that the County is again faced with reductions of revenue from the State and that recurring revenue of \$4-\$5 Million will be lost. The undesignated fund balance will be used to help lessen the impact in Fiscal Years 1993 and 1994. No initial targets will be set and each spending unit is requested to provide specific justification of requests that are over and above the department's FY '93 budget and that the requirements be prioritized.

During discussion Commissioner Loffler requested that work sessions be scheduled for the development of the FY '94 budget.

Commissioner Thompson suggested that the Commissioners consider the recommendation from the Alliance of Concerned Taxpayers that the public be included in the process. She suggested that as the budget preparations progress that a status report be given at each monthly public forum. ACT had also recommended that the Board of Education's budget public hearing be held a week earlier than the other spending units public hearing. Mr. Wade indicated he would research the law to see if this can be done. Commissioner Lancaster reminded the Commissioners of previous discussions that the Board of Education conduct a public meeting on its budget prior to the Commissioners' public hearing.

After discussion Commissioner Jarboe moved, seconded by Commissioner Bailey, to sign and forward the memorandum to All Spending Units as presented. Motion carried.

If there are any changes to the schedule it can be done at a later date.

**2) ORDINANCE NO. 92-30  
FISCAL YEAR 1993 SUPPLEMENTAL APPROPRIATIONS**

As a follow up to the October 27 public hearing, Mr. Wade presented the referenced Ordinance increasing the Fiscal Year 1993 Budget in the amount of \$433,336 from the General Fund Unreserved Fund Balance through a supplemental appropriation. This increase represents the retirement penalty attributable to salary increases paid by the Board of Education during Fiscal year 1992.

During discussion the Commissioners questioned whether this was a one-time penalty or would be a recurring expense.

After discussion Commissioner Lancaster moved, seconded by Commissioner Thompson to approve and sign Ordinance No. 92-30 as presented. Motion carried four to one with Commissioner Bailey voting against.



**BLUE CROSS/BLUE SHIELD  
EXPLANATION OF COUNTY GOVERNMENT COVERAGE**

Present: Trish Layman, Blue Cross/Blue Shield

Ms. Layman appeared before the Commissioners to present an overview of the county's current insurance program and to discuss industry changes that are taking place. Through a handout Ms. Layman described the county's experience period vs. contract period, account experience report (paid claims, income and ratio percentages), breakdown of medical coverage comparisons for years 1992, 1991 and 1990, and Relative Value of Benefits for Medical and Drugs.

The following issues were discussed:

- o Board of Education's type of coverage wherein a specific amount is paid and there is no settlement at the end (refunds or additional costs).
- o Percentage that is the break even point and at what percentage would the County get a refund. (Ms. Layman explained that because of variables and escalating costs the percentage cannot be specific.)
- o Without specific percentages, the difficulty in making comparisons between insurance companies.
- o Assessment of risk before making a decision to absorb other agencies into the County's health insurance program.

The Commissioners thanked Ms. Layman for her presentation, and she advised that she would provide as much information as she could to the Commissioners.

**BUDGET AMENDMENT NO. 92-15  
VARIOUS DEPARTMENTS**

Present: Charles Wade, Director of Finance

Mr. Wade presented the referenced Budget Amendment, which had been previously held for clarification, with the following justification: Health Insurance Shortage (totalling \$119,786).

**Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Budget Amendment as presented. Motion carried.**

**OFFICE ON AGING**

Present: Gene Carter, Director, Office on Aging

**1) Statewide Specialized Transportation Program**

Mr. Carter appeared before the Commissioners to present the grant application for the Statewide Specialized Transportation Program in the amount of \$54,016 for the period July 1, 1992 - June 30, 1993.

During discussion Mr. Carter pointed out that the state reduction in the SSTAP Grant is \$13,504. With earlier reductions for the Senior I and A (\$6,440) and Senior Center (\$2,714) total reductions amount to \$22,658. Mr. Carter pointed out that if the County reduced its match for the SSTAP program, it would be an additional loss of \$4,501 and requested the Commissioners' consideration to leave that amount in place.

**Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the grant application as presented. Motion carried.**

**2) Adult Day Care Program**

Mr. Carter announced to the Commissioners that the reconciliation of the Adult Day Care Program for the first quarter of Fiscal Year 1993 has been completed and that the program has cleared approximately \$2,000.



1993 LEGISLATIVE ITEMS  
COMMISSIONERS' POSITIONS

Item	Support	No Support	No Position	Comment
1. Agr/Transfer Tax	2,3,4	1,5		
2. Sludge Appl. Notif.	1,2,3,4,5			
3. Sludge/Farmland	1,2,3,4,5			
4. ABB/Caterer's License	1,3,4,5		2	
5. Eminent Domain	1,4	2,3	5	
6. Weight Limits	4,5	2,3	1	
7. Sidewalks/State Hwys	1,2,3,4,5			
8. Consolidation of Environmental Regs	1,2,3,4		5	
9. Charles Co. Comm. College Bd/Trustees Membership	1,2,3,5		4	
10. Metropolitan Commission Connection Requirements	1,2,4,5		3	
11. Water-Dependent Facilities Critical Area Program	1,2,3,4,5			
12. Md. Home Impr. Com. License Requirements		1,2,3,4,5		
13. Banning Gill Nets WITHDRAWN Pot. River Fisheries Com.				
14. Study Committee	1,2,3,4,5			
15. Public Facilities Bond	1,4,5	2,3		
16. Sales Tax Exemption Capital Projects	1,2,3,4,5			
17. Homestead Property Tax Credit	2,3,4	1,5		
18. Beautification Law		1	2,3,4,5	
19. Title Change, Pres. County Commissioners		1	2,3,4,5,	
20. Title Change Community College		1,2,3,4	5	
21. Deep Water Port	4	1,2,3,5		
22. Toll Bridge Lower Potomac River		1,2,3,4,5,		
23. Homesite Piggy Back Tax		1,2,3,4	5	
24. Alcohol Beverage Tax Emergency Services	5	1,2,3,4		
25. MetComm Lien Limitation	4	1,2,3,5		
26. Nonpayment of Property Tax Lien Limitation		1,2,3,4,5		
27. St. Mary's City Historic Landmark		1,2,3,4,5		
28. Severance Tax	1,4,5		2,3	
29. Conservation/Environ. Laws Fines			1,2,3,4,5	
30. Sale of Land Disc. of Information	4	1,2,3	5	
31. Protective Care Services Central Registry	3	4	1,2,5	

Code System to Identify Positions

Loffler 1; Bailey 2; Jarboe 3; Lancaster 4; Thompson 5



### **Executive Sessions**

Present: Edward V. Cox, County Administrator

Commissioner Bailey moved, seconded by Commissioner Thompson, to meet in Executive Session to discuss matters of Personnel and Property Acquisition. Motion carried. Sessions were held as follows:

#### **Personnel**

Also Present: Walter Dorsey

(Held from 12:05 p.m. to 12:20 p.m.)

#### **Personnel**

(Held from 12:20 p.m. to 12:45 p.m.)

#### **Property Acquisition**

(Held from 12:45 p.m. to 1:10 p.m.)

### **SANDY KNOLLS SUBDIVISION - SIGHT DISTANCE PROBLEM**

Present: Larry Day, Surveyor (on behalf of developer)  
Dan Ichniowski, Director, Public Works

Mr. Day appeared before the Commissioners to obtain a resolution to a sight distance problem for Sandy Knolls Subdivision off of Sandgates Road. He pointed out that the project, which originally contained eight lots, will probably have a maximum of five because of wetlands and perk test requirements. The Road Ordinance standards requirements for sight distance for the posted speed limit of 35 miles per hour is 425 feet, and the entrance to the proposed subdivision is 319 feet.

Mr. Day stated that he has been working with the Department of Public Works to try to resolve the matter but was unable to do so. He pointed out that he and the Department of Public Works have tried every configuration from moving the entrance to trying to acquire adjoining property. He suggested to the Commissioners the possibility of reducing the speed limit to 20 miles per hour which requires a minimum sight distance of 290 feet. Mr. Ichniowski reported that the required minimum speed limit per state law is 25 miles per hour. He further pointed out that any reduction of speed limits must be justified and for the good of the public.

After discussing a number of alternatives: acquiring adjacent property, cutting down the knoll, combining project with adjacent development to form a major subdivision, acceleration or deceleration lane, the Commissioners directed the Director of Public Works to work with Mr. Day in trying to find a solution to the problem.

### **DEPARTMENT OF PUBLIC WORKS**

Present: Dan Ichniowski, Director

#### **1) St. Mary's Hangar Association Addendum to Lease**

Mr. Ichniowski presented an Addendum between Board of County Commissioners and St. Mary's Hangar Association, Inc. modifying the terms of the 25-year lease to begin from the date that the Use and Occupancy Certificate was issued, February 4, 1991, instead of the date the lease was signed, July 21, 1987. He stated that the Airport Commission has reviewed and recommended approval of this modification.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Addendum as presented. Motion carried.



**2) Petition - Renaming Portion of Old Route 5**

Mr. Ichniowski presented a Petition from residents requesting that a portion of Old Route 5 in Scotland be renamed to Gaslewbrook Drive. He stated that if the Commissioners concur, he would proceed with the public hearing process to have the name changed.

**Commissioner Lancaster moved, seconded by Commissioner Bailey, to authorize Department of Public Works to proceed with the public hearing process as requested. Motion carried.**

**3) Request for Abandonment of Portion of Old Route 249**

Mr. Ichniowski presented correspondence from Joseph F. Bowes requesting that the county abandon a portion of Old Route 249 in the Tall Timbers area. He stated that there would be no objection to the abandonment as long as it did not cut off anyone's access. In a letter dated October 30 the Metropolitan Commission has requested a permanent easement for the sewer line that it to be installed in that area. He pointed out that this may negate the property owner's request for abandonment. Mr. Ichniowski indicated that this would be discussed during the public hearing and requested authorization to proceed with the public hearing process.

**After discussion Commissioner Lancaster moved, seconded by Commissioner Jarboe, to authorize Department of Public Works to proceed with the public hearing process as requested. Motion carried.**

**4) Agreement - Gott Company, Inc.**

Mr. Ichniowski presented an Agreement between the Gott Company, Inc. and Board of County Commissioners of St. Mary's County conveying to the County a 30-foot wide tract of land at the southern end of the Gott property to relocate the access road into the fairgrounds from Md. Rte. 5 and conveying to Gott the county property that had been originally intended to serve as the access road.

**Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Agreement as presented. Motion carried.**

**5) Easement Agreement - Utility Corridor  
Cedar Grove Limited Partnership**

Mr. Ichniowski presented an Easement Agreement among Board of County Commissioners of St. Mary's County, Southern Maryland Electric Cooperative, Inc. and Cedar Grove Limited Partnership granting egress and ingress across the utility corridor to the owner of a parcel of land located in 5th Election District.

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

**6) Addendum to Public Works Agreement  
Patuxent River Farms, Phase 1**

Mr. Ichniowski presented an Addendum to the Public Works Agreement between Route 347 Realty and the Board of County Commissioners for St. Mary's County extending the deadline for improvements in Patuxent River Farms, Phase 1, Eighth Election District to November 1, 1993.

**Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign the Addendum as presented. Motion carried.**

**DEPARTMENT OF PLANNING AND ZONING**

Present: Jon Grimm, Director  
Peggy Childs, Recording Secretary.

**1) 1992 Zoning Ordinance Amendments**

Mr. Grimm presented the Resolution adopting the proposed Zoning Ordinance Amendments, pursuant to the Commissioners' instruction of October 13, 1992, but asked that the effective date be changed from November 16, 1992 to November 30, 1992, to allow time for staff to print the updated Ordinance and have it available to the public.



**Commissioner Thompson moved to approve the Zoning Ordinance Amendments. The motion was seconded by Commissioner Lancaster.**

During discussion, Commissioner Bailey asked about the inventory of signs currently underway by DPZ. Mr. Grimm responded it is 90% complete, but he will not have a cost figure until the inventory is finished and an amortization schedule put into place; however, it is possible to set the amortization schedule so there will be no cost to the County. Commissioner Loffler asked if there are signs for which permits have been issued but have not yet been built? Mr. Grimm responded that he believes there are.

Commissioner Jarboe brought up his previous concerns regarding allowing slaughterhouses in the RPD, which are currently only permitted in Industrial Districts. Mr. Grimm reiterated his recommendation that that be looked at in a subsequent amendment, along with the Economic Development Commission's request for look at "mixed use districts" to improve the economic base of the northern part of the County.

Commissioner Jarboe also asked for a definition of "abandonment," referring to the current Ordinance which states that an abandoned mobile home may be removed after 30 days. He pointed out that it may take more than 30 days to rent a trailer. Commissioner Loffler and Mr. Grimm responded that there is a difference between "vacant" and "abandoned." Commissioner Jarboe asked if a trailer was destroyed, would the owner have more than 30 days to replace it? Mr. Grimm replied that, unless a structure is a nonconforming use, there is no time frame within which it must be replaced, that if the structure is destroyed there may be a time period to make the structure safe, but not to continue the use, and that each situation is looked at on a case by case basis.

The Commissioners reviewed the motion on the floor, and Commissioner Thompson moved that her motion be amended to include changing the effective date of the Resolution to November 30, 1992 as requested by staff. The motion was seconded by Commissioner Lancaster and passed by a vote of 3-2; Commissioners Bailey and Jarboe voted against.

The Chair called for the vote on the motion made and seconded to approve the Zoning Ordinance Amendments and for the Commissioners to sign the adopting Resolution. The motion passed by a vote of 3-2; Commissioners Bailey and Jarboe voted against and did not sign the Resolution.

## **2) Continuation of BOCA Code Public Hearing**

This public hearing was continued from October 21, 1992 to allow staff to prepare the adopting Ordinance and make the specific language available to the interested public. Mr. Grimm stated the Draft Ordinance was mailed on October 26, 1992 to approximately 150 addressees, and he has received no written comment date but did receive one verbal comment that the individual thought the Ordinance addressed his concerns.

Under the proposed Ordinance:

Item (7) adds the requirement for submission of construction drawings prior to permit release;

Item (11) adds the requirement and parameters for administration of construction drawings submission for natural gas installations and maintains the current exemption for all other mechanical and HVAC installations;

Item (14) updates the necessary references in the model BOCA Code to St. Mary's County;

Item (15) is the "grandfather" provision for the 1990 Code; and

Item (17) sets an automatic review process for subsequent updates of the model building codes adopted by the County.

During discussion it was reiterated that construction drawings will be accepted by staff and verified for the seal of the licensed professional as required by State law. Natural gas installations will be inspected by DPZ inspectors, who Mr. Grimm said have been undergoing training for the last year.

Commissioner Loffler opened the hearing to public comment. Jack Witten asked if there are requirements in the Code to tie the structure to the foundation and regarding the use of staples,



which were found to contribute to faulty construction following Hurricane Andrew. Commissioner Loffler replied the construction must be strapped or anchored with anchor bolts, and noted that there are different building codes for geographic portions of the United States, and the structures in Florida did not meet their Code.

There being no further comments, Commissioner Loffler closed the public comment portion and the public hearing, and directed staff to come back on November 24th for final approval.

**FERST FOR ST. MARY'S, INC.  
BOARD OF APPEALS PROCEDURES**

Present: Joseph Densford, County Attorney

As requested by Commissioner Loffler, Mr. Densford appeared before the Commissioners to discuss the Board of Appeals process with regard to the proposed land clearing debris landfill by FERST for St. Mary's, Inc. in the Charlotte Hall area.

Commissioner Loffler pointed out that concerns had been expressed to him as to whether proper procedures were followed by the Board of Appeals in approving the conditional use for the proposed landfill. Commissioner Thompson indicated that at the MDE November 4 public hearing there were questions as to whether there would be an additional public hearing.

Mr. Densford reported that at its September 24 meeting, the Board of Appeals had requested him and Mr. Mander (attorney to the Board of Appeals) to research whether the Board of Appeals had the legal authority to reconsider its decision to permit municipal solid waste compost at the landfill and to report back at the October 8 meeting. He indicated that he had reported to the Board of Appeals at the 10/8 meeting that although there was nothing in the Zoning Ordinance regarding reconsideration of a conditional use approval, common law allows reconsideration of a decision in the event that fraud, mistake, or irregularity had been demonstrated.

The County Commissioners continued discussion, and the topics included:

- o Whether there was proper notification of the Board of Appeals meeting during which the Board reconsidered its previous decision and approved the placement of municipal solid waste compost at the landfill.
- o Whether legal process was followed at that decision-making meeting.
- o Whether another public hearing would be required by the Board of Appeals because of additional information and circumstances regarding materials that are proposed to be deposited in the landfill.
- o Whether FERST would be exempted from state regulations regarding the deposit of municipal solid waste because of financing from the State (as noted in HB 1088).
- o Responsibility for monitoring and testing of landfill site because of correspondence received from the State that it would no longer be testing and monitoring landfills in the County.

After discussion the Commissioners directed Mr. Densford to draft correspondence for the Commissioners' signatures to Maryland Department of Environment inquiring about the status of regulations regarding materials deposited in landfills; how the regulations would be enforced; monitoring and testing of the proposed landfill; whether the proposed facility is exempt from regulations; and to request that the letter be included as part of the record of the November 4 public hearing.

Mr. Densford was also requested to prepare a letter to the Board of Appeals requesting assistance in gathering of facts and making sure the record is in order for what has been approved. Commissioner Loffler stated that the Board of Appeals should determine whether the case should be reopened or whether everything had been processed correctly.

**REQUEST FOR UNUSED SICK LEAVE**

As a follow up to previous discussion, the County Administrator presented correspondence addressed to James Weber indicating that the Commissioners have reviewed his request for payment for unused sick leave. The letter indicates that the request cannot be approved and that county government's participation in the Maryland State Retirement System would not allow the county to act inconsistently with policies and procedures of the state.

After discussion Commissioner Thompson moved, seconded by Commissioner Lancaster, to sign and forward the letter as presented. Motion carried three to two with Commissioners Bailey and Jarboe voting against. Motion carried.



**ADJOURNMENT**

The meeting adjourned at 3:30 p.m.

Minutes Approved by Board of  
County Commissioners on November 17, 1992

Judith A. Spalding  
Recording Secretary