

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

November 17, 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 Jarboe moved, seconded by Commissioner Thompson, to approve the minutes of the Commissioners' meeting of Tuesday, November 10, 1992. 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.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) December 29 Commissioners' Meeting

The County Administrator advised that there are five Tuesdays in December and inquired whether the Board would consider cancelling the December 29 meeting. The Commissioners gave their concurrence.

**2) Hollywood Volunteer Fire Department
Request for Waiver of Building Permit Fee**

The County Administrator presented correspondence responding to a letter dated October 29 from the Hollywood Volunteer Fire Department requesting waiver of the building permit fee for the construction of a tower to house the siren. The return letter indicates approval of the request in that it is in compliance with County's Resolution No. 75-53.

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

**3) St. Mary's County Fire Board
Length of Service Award Program**

The County Administrator presented correspondence addressed to the Chairman of the St. Mary's County Fire Board responding to recommendation in the Joint Length of Service Award Program Committee Report. The letter indicates that because of the fiscal impacts, the Commissioners will consider the proposals for changes to the LOSAP during the Fiscal Year 1994 budget deliberations.

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

4) 1994 Legislative Package

The County Administrator presented correspondence addressed to the legislative delegation forwarding the Commissioners' positions on the 31 items of the 1994 Legislative Package.

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

5) State's Attorney's Office - Forfeiture Clerk

As a follow up to Executive Session discussion, the County Administrator presented correspondence addressed to the State's Attorney approving the request to employ Mary Jo Guyther in the temporary position of Forfeiture Clerk and rescinding the disapproval as contained in October 23 correspondence.

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

**6) Leave Without Pay Request
Finance Department**

The County Administrator presented a memorandum dated November 16 from the Personnel Officer requesting 30 days of Leave Without Pay for Kathleen M. Kreps, who had been involved in an accident on August 11.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve the LWOP as requested. Motion carried.

**7) Memorandum of Understanding
Patuxent River Estuary Demonstration Project**

The County Administrator presented a Memorandum of Understanding between Tri-County Council and St. Mary's County Patuxent River Estuary Demonstration Project, which provides funds to TCC to implement the work program for the Patuxent River Demonstration Project.

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

**8) Budget Amendment No. 93-19
Planning and Zoning**

The County Administrator presented the referenced Budget Amendment recommended for approval by the Director of Finance with the following justification: Reverse budget amendment 93-12 (To provide funding for hardware requirements for DPZ and zoning customer service desk) per agreement (\$5,390).

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

9) Appointment - Southern Maryland Wood Treatment Task Force

Commissioner Bailey moved, seconded by Commissioner Lancaster, to appoint Dr. Douglas G. Capone to the Southern Maryland Wood Treatment Task Force to replace Dr. Jay Gooch, who has resigned. Motion carried.

**10) FERST For St. Mary's, Inc.
Land Clearing Debris Landfill**

As a follow up to last week's discussion, the County Administrator presented correspondence addressed to Maryland Department of Environment setting forth questions raised by the Commissioners regarding the referenced landfill.

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

In addition, the County Administrator presented correspondence addressed to the Board of Appeals inquiring whether appropriate procedures were followed in the approval of the conditional use for the referenced landfill, including the placement of municipal solid waste compost at the facility. The letter further requests that the Board determine whether it believes there is any basis to hold a second public hearing on the issue of placing municipal solid waste compost at the landfill.

Commissioners Bailey and Jarboe indicated they were not in favor of signing the letter because the Board of Appeals had already determined this matter, and the letter could be received as trying to influence the Board of Appeals. Commissioner Thompson stated that she felt the letter was necessary because of concerns addressed at the MDE November 4 public hearing regarding municipal solid waste.

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

Commissioners Loffler and Thompson requested that the letter be redrafted for their signatures and later in the meeting signed and forwarded the letter.

1992 AUDIT REPORT

Present: John Cox, Cox, Long, Askey
Charles Wade, Director of Finance

Mr. Cox appeared before the Commissioners to present the 1992 Audit Report for St. Mary's County. The Report included the County's Financial Position, Comparison of Actual to Budget - General Fund, General Long-Term Obligations, and Ratios of Financial Condition. Mr. Cox pointed out that a "Single Audit" report will be made available within four weeks.

After discussion of the Report, the Commissioners thanked Mr. Cox for his presentation.

STATE OPEN MEETINGS LAW REQUIREMENTS

Present: Edward V. Cox, County Administrator
Joseph Densford, County Attorney
Mary Pat Pope, Administrative Officer

The referenced individuals appeared before the Commissioners to discuss the State Open Meetings Law requirements, to present the process for St. Mary's County Government to meet those requirements, and to request the Commissioners' approval of the process.

Mr. Densford explained that it was necessary to look at both the state law and the county law and to determine which was the more stringent and then apply the more stringent of the two. Because of the changes to the state law, the county will have to make a few procedural changes related to executive sessions. Mr. Densford noted that one of the changes in the state law established the Open Meetings Compliance Board, which is an advisory board for the open meetings law.

Ms. Pope reviewed the changes that would be necessary to comply with the state open meetings laws which include the placing of a statement on the published agenda that "a part or all of the meeting may be conducted in closed session;" the taking of minutes in an executive session (which would be approved at the next executive session, that the minutes must be retained for one year, and certain information to be included in the minutes of the open session relative to the executive session). She further pointed out that a form will be used for the executive sessions which denotes date, time, and place; citation of authority and purpose; members present and vote to close the session; topics discussed; persons present; and actions taken. One of the aspects of the state law is the recordation of votes during executive sessions. Commissioner Loffler pointed out that the St. Mary's County open meetings law does not allow for final action in executive sessions, which is more stringent than state law.

The Commissioners discussed the retention of minutes for one year, and Commissioner Loffler suggested that if the Commissioners authorize staff to proceed with the changes, that the item regarding destruction of minutes after one year be deleted.

After discussion Commissioner Jarboe moved, seconded by Commissioner Bailey to direct staff to proceed with the implementation of the state open meetings law requirements as presented (that the destruction of executive session minutes after one year remain in the procedures). Motion carried three-one-one with Commissioners Jarboe, Bailey and Thompson voting in favor, Commissioner Loffler voting against and Commissioner Lancaster abstaining.

Commissioner Jarboe moved, to amend the motion to make the implementation effective December 1, 1992. Motion defeated for lack of a second.

The County Administrator indicated that staff will be ready to implement the changes in procedures at next week's meeting.

RECREATION AND PARKS

Present: Phil Rollins

1) St. Clement's Museum - Accreditation

Also Present; Michael Humphries

The referenced individuals appeared before the Commissioners to announce that the St. Clement's Island Museum has received accreditation from the Accreditation Commission of the American Association of Museums, the highest honor a museum can receive. St. Clement's Museum is one of 13 of the 250 museums in the state that has received this award.

The Commissioners congratulated the museum director and members of the museum board for their efforts in getting this recognition for the museum.

2) Program Open Space

Mr. Rollins appeared before the Commissioners to explain the Department of Natural Resources' legislative proposal to use 25% of Program Open Space Funds for maintenance and to get the county's position on the proposal. He explained the creation, purpose, funding, and goal of the Program Open Space and pointed out that if POS funds, which are generated from real estate transfer tax, are used for general operation, it defeats the original intent of the program. The POS funding was intended for acquisition and development for the purpose of preserving open space and parks. Mr. Rollins indicated that if use of 25% of the funds is allowed for general operation now, there is the possibility that DNR could try to increase that amount later.

Mr. Rollins advised that the Department of Natural Resources has asked whether local governments wanted to be included in the proposal. He stated that the Maryland Association of Counties Recreation and Parks Affiliate's tentative position is to not support the proposal.

After discussion Commissioner Lancaster moved, seconded by Commissioner Jarboe, to support MACo R & P Affiliate to not support the proposal, and further to take a "No" position on the use of St. Mary's County's POS funds for maintenance. Motion carried.

BOARD OF EDUCATION - CAPITAL IMPROVEMENT PROGRAM

Present: Joan Kozlovsky, Superintendent of Schools
Ed Fitzgerald, Asst. Superintendent of Administration
Charles Himmelheber, Supervisor, School Facilities

The referenced individuals appeared before the Commissioners to present the revised Capital Improvement Program for St. Mary's Public Schools. Dr. Kozlovsky indicated that because of decreased enrollment projects the CIP has been adjusted accordingly which has resulted in a reduction of approximately \$10.2M from the original proposal. She stated that the CIP proposal is based on the need to:

- o Provide additional capacity at all education levels in the current decade;
- o Establish a program of capital renewal and replacement budget allocations that ultimately will provide for extending the life of existing buildings; and
- o Develop a capital improvement program to incorporate the immediate and long-range needs for housing students.

She stated that the Program had been submitted to the Interagency for School Construction on October 19 with IAC recommendations expected on November 19. Local government approval is required by December 7.

Mr. Fitzgerald reviewed the items of critical importance: Hollywood Elementary School furniture/equipment; Park Hall School; Great Mills High School vs. new high school; renovation of buildings; and maintenance of current facilities. He further presented and reviewed the following documents: Summary of Facility Needs (which included a new item because of safety concerns--Leonardtwn High School bleachers); Proposed Capital Improvement Program Funding Breakdown; and Six-Year Capital Improvement Program Summary.

The County Commissioners and Board of Education will discuss the Capital Improvement Program at the November 24 joint meeting.

EXECUTIVE SESSIONS

The County Administrator advised that two executive sessions have been scheduled--one on personnel (consideration of appointments to Boards, Committees, Commissions) and litigation.

Commissioner Bailey moved, seconded by Commissioner Jarboe to meet in Executive Session on the litigation matter only and not the personnel matter. Motion carried four to one with Commissioner Jarboe voting against.

Litigation

Present: Edward V. Cox, County Administrator
Joseph Densford, County Attorney

(Session held from 12:15 p.m. - 12:30 p.m.)

DEPARTMENT OF PUBLIC WORKS ADDENDUM TO PUBLIC WORKS AGREEMENT - BRETON BAY PUD

Present: Dan Ichniowski, Director, DPW

Mr. Ichniowski presented an Addendum to the Public Works Agreement between Breton Bay Development Associates and Board of County Commissioners for St. Mary's County. The purpose of the Addendum is to substitute resubdivided lots, eliminate or relocate certain streets, and to change the names of all streets. Mr. Ichniowski advised that the resubdivision was as a result of wetland problems. In response to an inquiry from Commissioner Loffler, Mr. Ichniowski noted that no lots were dependent upon the roads that had been eliminated.

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

NON-PUBLIC SCHOOL TRANSPORTATION

Present: James Haley, Procurement Officer
Mary Duke, Chief, Adm. Support Services

The referenced individuals appeared before the Commissioners to present a report on the non-public school transportation program and to request consideration for additional funding in Fiscal Year 1994.

Mr. Haley reviewed the non-public transportation program pointing out that the county currently contracts for 36 buses in order to provide transportation to ten elementary schools and one high school. By way of graphs, Mr. Haley described the school bus ridership which demonstrated an increase of 342 riders from the period 1988-89 to 1992-93. He further described the average riders per bus and comparisons to state averages (budgets, route miles and cost per mile). Mr. Haley and Mrs. Duke reported that there are school bus capacity concerns in the Ridge, Town Creek, and Breton Bay areas. In order to resolve the bus capacity problem, Mr. Haley indicated two additional bus contracts would be needed.

Mr. Haley requested the Commissioners' consideration during the development of the Fiscal Year 1994 budget process for \$51,335.34 for two additional bus contracts. Because of the time frame for obtaining the contracts, Mr. Haley stated that he would need to start the process soon.

After discussion Commissioner Bailey moved, seconded by Commissioner Jarboe, to authorize the Procurement Officer to proceed to contract for two additional buses. Motion carried.

EXECUTIVE SESSION - PERSONNEL

Commissioner Thompson moved to meet in Executive Session to discuss Personnel (consideration of appointments to Boards, Committees, Commissions). Motion defeated for lack of a second.

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SENIOR OLYMPICS

The Commissioners attended the Senior Olympic awards presentation at the Garvey Senior Center. During the ceremony the Commissioners presented the following Commendations: James Charles Wooten for first place in the 1500 meter race and William Gallaher for first place in golf.

ADJOURNMENT

The meeting adjourned at 3:15 p.m.

Minutes Approved by Board of
County Commissioners on November 24, 1992

Judith A. Spalding
Recording Secretary