

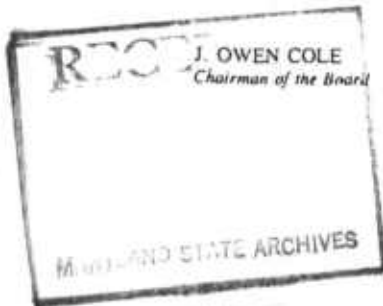
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October 30, 1987

Governor William Donald Schaefer  
The State House  
Annapolis, Maryland 21404

Dear Governor Schaefer:

As Chairman of the Governor's <sup>✓</sup> Special Committee on the Port of Baltimore, I am pleased to send you our findings and recommendations regarding the operations of the Port. This letter, which constitutes the report of the committee, is divided into five parts: Introduction, Port Comparisons, MPA Structure and Operations, Other Competitive Issues, and Conclusions and Recommendations.

#### INTRODUCTION

The Committee was established by Executive Order 01.01.1987.16 and charged with "investigating the administrative procedures of the Maryland Port Administration" and "recommending necessary changes" to improve the Port's competitive posture, including changes in the agency's status and structure.

To fulfill this charge, the Committee gathered information about the Port of Baltimore specifically and about the port industry generally. The Committee researched the role of the Port in the State's economy, its current operations and newly developed Strategic Plan, its recent performance in relation to that of its major competitors, and the laws, regulations, and policies that govern the actions of the Maryland Port Administration (MPA).

The Committee reached three major conclusions as the result of this research:

1. The Port of Baltimore plays a major role in the economic development of the State, generating about \$1.5 billion in economic benefits each year, providing thousands of jobs, and contributing to the efficient operation of companies throughout Maryland.

2. The Port faces severe competition and has had a difficult time in meeting the challenges that it faces. Because of the Port's central role in the State economy, the loss of business that has already occurred will have a spillover effect outside of the transportation sector and should be a cause of concern for all of Maryland's taxpayers, who have contributed hundreds of millions of dollars toward building the Port's infrastructure.

3. Because of its status as a State agency with limited exemptions from State regulations, the MPA is at a competitive disadvantage. It is forced to compete with ports that operate outside normal governmental strictures and does not enjoy the flexibility it needs to react to changes in the marketplace.

Based on these conclusions, the Committee is proposing for your consideration 12 recommendations that we believe will allow the MPA to combine the best characteristics of the private and public sectors.

The MPA that we envision would be a great deal more efficient than the current MPA and in a better position to compete with other port agencies. It would retain its favorable access to capital funds through the Transportation Trust Fund and would continue to be subject to substantial oversight from the Maryland General Assembly. At the same time, the MPA would enjoy more operational flexibility and would adopt a mechanism for tapping the considerable business acumen that can be found in this State, namely a Board of Commissioners.

If properly structured, this Board would act as an energizing influence in port matters, keeping the MPA attuned to the concerns of private industry and providing an important intellectual resource to help in guiding the agency. An important role of the Board would be to identify approaches to some of the major issues that were not included in the charge that was given to this Special Committee on the Port. These matters include labor-management relations, terminal operations, and inland transportation costs.

PORT COMPARISONS

After a preliminary look at the Port of Baltimore and the MPA, the Committee next conducted a survey of the other major ports of the United States. The purpose of this survey was twofold: to determine how Baltimore's recent performance compared with that of its competitors and to discover if the MPA's operating procedures were significantly different from those of other port agencies.

Broadly stated, the Committee found that Baltimore has performed poorly over the last several years and that the MPA enjoys one major advantage over other ports in terms of capital funding and yet suffers from a lack of flexibility in other areas, notably personnel systems.

The Committee was unable to draw any direct correlation between port performance and operational flexibility. Nonetheless, it became clear that MPA managers spend much more time and energy on administrative problems than do their counterparts at many other ports. It is hard to believe that this time and energy would not be better spent on attracting cargo to the Port of Baltimore.

To gauge the relative performance of the Port of Baltimore, the Committee looked at data on container shipments through Baltimore and 15 other North American ports. Although container shipments do not tell the entire story about a port, the Committee believed that this was a good way to estimate port effectiveness, particularly since much of the MPA's past and projected investment has been in container facilities.

The results of this survey are sobering. In the last five years Baltimore's annual growth rate has been less than 2 percent while major competitors such as Charleston, Savannah, and Hampton Roads had annual growth rates of 20 percent or better. Over the last two years, Baltimore has lost tonnage while our competitors continue to grow at 20 percent annual rates.

The causes for Baltimore's poor performance are many and interrelated. It would be incorrect to say that Baltimore's decline has been caused directly or even largely by the MPA's status as a State agency. It can be stated, however, that many of the MPA's competitors do operate with substantially more flexibility.

In Virginia, for example, the Virginia Port Authority is a State agency that most follow the same administrative procedures of other Virginia agencies. The VPA does possess, however, a mechanism to overcome these restrictions. This is Virginia International Terminals, Inc., (VIT), which is a private, nonprofit, nonstock corporation that is not considered a State agency but is under the direct control of VPA.

VIT's main function is to operate the terminals that are owned by VPA, but it is also used as a vehicle to speed up procurements and to supplement compensation packages for VPA executives. Even though VIT receives revenues from operating State-owned terminals, it is treated as an independent contractor without any State connection. Its status has not been challenged by the Virginia legislature because of the organization's success in attracting new business.

Although Virginia is the most extreme case of autonomy enjoyed by a port agency, other port agencies around the country do operate with more flexibility than the MPA. For example, Savannah and Charleston are both considered State agencies and yet they have complete exemption from the procurement laws of Georgia and South Carolina, respectively, as long as they follow the general intent of those laws.

In Savannah and Charleston, the port directors have virtually total control over their personnel systems. On the West Coast the personnel policies are more restrictive, although these ports are profiting from the explosion of economic activity in the Pacific Basin and would probably be successful under almost any administrative structure.

In New Orleans, which like Baltimore has just issued a new Strategic Plan, the port agency has successfully petitioned the Louisiana Civil Service Commission to remove 18 top management and sales positions out of the Civil Service system. The agency plans to develop an in-house personnel management system and gradually remove all port employees from Civil Service.

The Committee's survey of competing ports did document that there is one area in which the Port of Baltimore enjoys a competitive advantage: capital funding. The MPA's ties to the Department of Transportation allow it to identify funds for major programs in a timeframe that other ports simply cannot match. For example, it is doubtful that other port agencies could have assembled the financing that allowed the

MPA to develop the Toyota Terminal proposal and sign that company to a 15-year lease. The MPA's ties to DOT have also proved beneficial on the Seagirt Marine Terminal project, which is being financed and developed on a "fast-track" basis by the Maryland Transportation Authority.

The Committee had hoped at one time to visit some of Baltimore's leading competitors for a first-hand look at their operations. The one port that drew the most interest from the Committee was, for obvious reasons, Norfolk. The Committee's request for a visit and tour, however, was turned down by the Virginia Port Authority.

#### MPA STRUCTURE AND OPERATIONS

After the Committee had made a preliminary survey of the port industry, it was suggested that the Committee be split up into smaller, more workable groups to study the three issues that were identified in your Executive Order: personnel, procurement, and budget.

These subcommittees were structured as follows:

##### PERSONNEL SUBCOMMITTEE

Chair: Mathias J. DeVito (Chairman, The Rouse Co.)  
Members: Senator Jack Cade  
Hilda Ford (Secretary of Personnel)  
William K. Hellmann (Partner, Rummel, Klepper  
& Kahl)  
Thomas J. Owen (Chairman, Perpetual Savings)  
Mark Wasserman (Director of Programs)

##### PROCUREMENT SUBCOMMITTEE

Chair: Harold Adams (Chairman, RTKL Associates)  
Members: Senator J. Glenn Beall  
J. Owen Cole  
Richard Trainor (Secretary of Transportation)  
Delegate Eileen Rehrmann  
Delegate Ellen Sauerbrey  
Earl Seboda (Secretary of General Services)

**BUDGET SUBCOMMITTEE**

Chair: William B. Snyder (Chairman, GEICO)  
Members: Delegate John Arnick  
Senator Frank Komenda  
Senator John Pica  
William Potter (President, Preston Trucking)  
Marsha Schactel (Executive Assistant,  
Programs Office)  
Louis Stettler/Charles Benton (Secretary of  
Budget & Fiscal Planning)

The personnel subcommittee identified six areas of concern regarding MPA operations. The committee concluded that the MPA was constrained from operating in a businesslike manner because its personnel actions in these areas were controlled by outside agencies. As a result the MPA is unable to act effectively in creating and abolishing positions, reorganizing, establishing competitive compensation packages, establishing its own job qualifications, determining recruitment and selection techniques, and resolving grievances and disciplinary actions.

Some of the specific problems that the MPA has faced are as follows:

o It can take four to eight months for the MPA to secure the approvals needed to create or reallocate positions in order to more effectively manage the affairs of the port.

o The MPA is constrained in recruiting for certain positions by the kinds of compensation packages that are offered. It is unable to offer performance-related incentives and is limited in its ability to offer fringe benefits that are common elsewhere in the port industry.

o An MPA manager must recruit and hire for certain positions from a pool of applicants qualified by an agency with a dissimilar mission and priorities.

The procurement subcommittee also concluded that the MPA is constrained from acting in a businesslike manner because it does not have control over a key area of operations, i.e. procurement. The subcommittee found that the MPA was

encountering poor quality and long delays in its mandatory purchases from State Use Industries, that it encountered long delays and repeated reviews in the process of obtaining the necessary approvals from the Department of General Services and the Department of Budget and Fiscal Planning, and that it faced restrictions on the purchase of computers and other office automation equipment, insurance, and vehicles.

The budget subcommittee found that the MPA does have an excellent competitive tool in its ability to develop capital funding, and it concluded that the current system of participation in the Consolidated Transportation Program should continue.

At the same time, the subcommittee found that the MPA needs greater flexibility with its operating budget so that it can respond to changes in the marketplace in a fast and effective way. Currently, the MPA operating budget is developed 14 months ahead of implementation and more than two years before the budget cycle has been completed. This lengthy process undercuts the quality and effectiveness of MPA programs since the implementation is so far removed from the development and many intervening changes can occur. When new programs must be created to meet changes in the marketplace, the MPA faces a lengthy review and approval process. To remedy this situation, the subcommittee recommended that a contingency fund be established.

While the MPA is not totally blameless for some of the bureaucratic problems that were discovered by the subcommittees, the MPA has demonstrated an ability to make the most of the advantages that it does enjoy as a State agency and to use the exemptions that are available to it when conditions warrant. Under extraordinary circumstances the MPA is able to use the existing system creatively and to get results. On a day-to-day basis, however, the MPA moves sluggishly and does not operate at optimal effectiveness.

Each of the subcommittees was asked to look at four alternative approaches to the problems that they identified. The first was a status quo alternative. That is, to simply allow matters to continue as they have. The second was to effect limited reforms but essentially retain the MPA's present format and structure.

The third alternative was to recast the MPA, with a Board of Commissioners that would provide the necessary checks and balances while allowing the MPA to quickly take action without getting sign-offs up and down the line. Under

this alternative the MPA would nevertheless remain a modal agency of DOT and would retain its ties to the Transportation Trust Fund. The fourth alternative was to establish the Board of Commissioners and take the MPA out of the Department by creating an independent authority.

The subcommittees found that a Board of Commissioners could be very helpful as an oversight mechanism that would then allow the MPA to operate with considerable day-to-day flexibility. This approach would allow the MPA to address concerns in all three problem areas (personnel, procurement, and budget) simultaneously and seemed to be preferable to a piecemeal approach. At the same time, the subcommittees were uncomfortable with taking the port agency out of the Department of Transportation for fear that the MPA would lose the advantages that it now has in developing capital projects.

#### OTHER COMPETITIVE ISSUES

As the subcommittees looked closely at MPA operations, it became clear that there were other competitive issues outside the charge of the Governor's Special Committee on the Port. These issues include such matters as inland transportation costs, the role of labor in the port, and the role of the State in operating the terminals that it owns.

The Committee did not address these issues because we felt that to study them adequately would have taken us far afield of the important matters that we were asked to look into.

The Committee concluded that these issues do need to be addressed, but it also felt that it would be a very valuable first step to grant to the MPA the operational flexibility that is enjoyed by competing port agencies. Unless the State takes this first step, to provide the MPA with a better orientation toward the marketplace and the tools to respond to changes in the marketplace, it may never be able to accomplish the other needed steps.

CONCLUSIONS AND RECOMMENDATIONS

Although the MPA faces a large number of administrative problems, it probably does not fare any worse than other State agencies in dealing with red tape. But there is an important difference: The MPA is a business and, like it or not, the MPA is competing against other publicly funded port agencies that operate as if they were completely in the private sector.

It would probably be wrong to say that any one of the bureaucratic problems that we have looked at can be tied to the loss of any particular piece of business. At the same time, it is clear that the MPA is laboring under constraints that those of us in the private sector would find intolerable in our own operations.

With these conclusions in mind, the Governor's Special Committee on the Port of Baltimore offers you the following recommendations on ways to improve the MPA's effectiveness:

1. The Maryland Port Administration should have improved systems for personnel, budget, and procurement so that it can compete more effectively in the port industry.
2. The MPA's capital projects should continue to be developed and funded through the Consolidated Transportation Program of the Maryland Department of Transportation.
3. The Maryland Port Administration would benefit from having a Board of Commissioners consisting of private sector leaders who would set policy and help to devise business strategy.
4. This policy-making board should be known as the Maryland Port Commission, and the Secretary of Transportation should serve as chairman of the Commission with veto power over its actions. The Maryland Port Administration should be reorganized as the operating arm of the Commission.
5. In addition to the Secretary, the other members of the Commission should be "persons of ability, experience, and integrity and shall not be selected as representing or supporting any special interest or interests." They should be appointed by the Governor with the consent of the Senate and serve staggered, three-year terms.

6. The size of the Board should remain small but should include representation from around the State. One possible system of representation would include two members from the Baltimore area and one each from the Eastern Shore, the Western Shore, the Washington suburbs, and Western Maryland.

7. The MPA should remain in the current budget process, but the General Assembly should make several modifications to allow the agency to operate in a more businesslike manner.

An operating contingency fund should be established at an amount equal to 10 percent of the operating budget. The Board of Commissioners should have the authority to approve and make disbursement of up to \$1 million, provided that the Board reports this action in a timely fashion to the Budget Committees of the General Assembly. Larger disbursements from this fund must be approved by the Board of Public Works.

Any funds remaining in the contingency fund at the end of the year should revert to the Transportation Trust Fund. A report of the expenditures of the previous year's contingency fund should be made to the Budget Committees of the Maryland General Assembly at the annual budget hearings.

In addition, the detailed annual operating and capital budgets that are developed by the MPA should be presented to the Commissioners. The detail budgets should be submitted to the Maryland Department of Transportation, the Department of Budget and Fiscal Planning, and the Maryland General Assembly for approval. Once approved, budget expenditures and budget amendments will be handled through the current process with whatever modifications are necessary to implement the MPA's personnel and procurement activities.

Also, the Committee recommends that MPA develop an automated, integrated financial and management information system to support the new systems recommended by the Committee.

8. To allow the MPA to operate in a more businesslike manner, the General Assembly should direct the Maryland Port Commission to establish a "performance-driven" personnel system. This change should:

- a. Allow the MPA to recruit, manage, and retain the personnel it needs to compete in the port industry.
- b. Give the Commission the independent authority to abolish, reallocate, or reorganize all positions within monetary limits established by the General Assembly.

c. Give the Commission the independent authority to create new positions within limits established by the General Assembly.

d. Allow the Commission to establish qualifications and standards for its positions and to set recruitment and selection techniques.

e. Give the Commission the independent authority to adopt such overtime, holiday, leave, and compensation policies as necessary.

f. Provide appropriate safeguards for existing employees.

9. To allow the MPA to operate in a more businesslike manner, the General Assembly should direct the Maryland Port Commission to establish its own procurement procedures and regulations. These procedures and regulations should:

a. Accomplish the purposes of Maryland procurement law, specifically ensuring public confidence in the system and providing for fair and equitable treatment of bidders.

b. Provide a standardized system for public notice and other procedures.

c. Establish the following methods of procurement: low bid, negotiated procurement, sole source, small procurement, emergency, and expedited.

d. Provide preference for the use of the best method under the circumstances and not necessarily low bid.

e. Vest control over procurement in the Board of Commissioners.

f. Provide for Board of Public Works approval over some dollar limit.

10. The goal of the Board of Commissioners should be to improve the effectiveness of the MPA. Specifically, the Board should set policy, provide a mechanism for the MPA to have greater autonomy within reasonable safeguards, and work to improve the port's value to all parts of the State. In addition, a major purpose of the Board should be to guide the chief executive officer in devising strategies and approaches to issues facing the port.

Among the issues that the new Commission should consider is whether landside costs can be reduced at State-owned terminals by allowing the MPA to take a greater role in operating these terminals or by changing the way in which these facilities are leased to private companies. The Commission should also investigate whether there are other steps that the port can take to improve its competitive position, such as improving the port's labor climate and reducing inland transportation costs.

11. The Governor's Special Committee on the Port of Baltimore should remain constituted as an advisory body to aid in the transition to the new Maryland Port Commission.

12. The MPA's Private Sector Port Committee should not be displaced by the Maryland Port Commission and should continue to provide an effective communications link between the MPA and the private sector port community.

These recommendations were adopted by the Committee at its most recent meeting, on October 21. If you would like to discuss these recommendations further with me or with other members of the committee, please let me know.

It has been a personal privilege for me to serve as chairman of this Committee and to work closely with the other members on this very important issue. If you choose to accept our recommendation No. 11, I would be pleased to continue my service on this Committee.

Sincerely,

J. Owen Cole  
Chairman, Governor's Special  
Committee on the Port of Baltimore