

BOARD OF COUNTY COMMISSIONERS' MEETING

Wednesday, November 8, 1978

Present: Commissioner James M. McKay, President
Commissioner Ford L. Dean
Commissioner J. Patrick Jarboe, M.D.
Commissioner Larry Millison
Commissioner John K. Parlett
Edward V. Cox, County Administrator
Judith A. Mullins, Recording Secretary

The meeting was called to order at 9:00 a.m.

READING AND APPROVAL OF MINUTES

The minutes of the County Commissioners' meeting of November 1, 1978 were read. Commissioner Jarboe moved, seconded by Commissioner Dean, to approve the minutes as read. All Commissioners voted in favor.

ENCUMBRANCE VOUCHERS

Present: Harris Sterling, Director of Finance

Mr. Sterling presented the encumbrance vouchers for the Commissioners' review and approval. Commissioner Parlett moved, seconded by Commissioner Jarboe, to approve payment of the bills as submitted. All Commissioners voted in favor.

ORIENTATION FOR INCOMING COMMISSIONERS

The County Administrator presented a proposal for the Commissioners' consideration in order to orient the newly-elected County Commissioners whose term of office begins December 13. The Commissioners reviewed the proposal, made certain changes and directed the County Administrator to coordinate with staff and incoming Commissioners to conduct the orientation meetings on November 22 and November 29.

RECORDING SECRETARY POSITION
OFFICE OF LAND USE AND DEVELOPMENT

The County Administrator presented a memorandum from the Personnel Officer advising that Joyce Nelson, Recording Secretary, Grade 8, in the Office of Land Use and Development, has submitted her resignation effective December 1, 1978.

After discussion, Commissioner Jarboe moved, seconded by Commissioner Parlett, to authorize the advertisement of this position. All Commissioners voted in favor.

REPLACEMENT OF SHERIFF'S DEPARTMENT VEHICLES

As as follow up to previous discussion concerning the purchase of replacement vehicles for the Sheriff's Department, the County Administrator

reported that there was an overage in the amount of approximately \$5,000 and therefore it was requested that approval be given for the following account transfers:

Decrease Account No. 2610-26912 (Reserve for Contingency) in the amounts of \$307 and \$4,860;

Increase Account No. 1112-31610 (Vehicle Equipment) by \$307 and Account No. 1112-31710 (Vehicle Replacement) by \$4,860.

Commissioner Parlett moved, seconded by Commissioner Dean, to approve the referenced transfer. All Commissioners voted in favor.

CETA PERFORMANCE REVIEW COMMITTEE

The County Administrator recommended the Commissioners' approval of the proposal submitted by the Budget Officer in a memorandum dated October 5, 1978, to establish a CETA Performance Review Committee consisting of the County Administrator, Budget Officer and Personnel Officer. The purpose of the Committee is to establish objective evaluation norms in order to secure the optimum effectiveness from the CETA Program.

Commissioner Jarboe moved, seconded by Commissioner Parlett to endorse the Budget Officer's memorandum of October 5, setting up the CETA Performance Review Committee. All Commissioners voted in favor.

ECONOMIC IMPACT FEE AGREEMENT

The County Administrator presented the Economic Impact Fee Agreement by and between Amelia Marie Stauffer and the Board of County Commissioners of St. Mary's County setting forth the method of payment of the economic impact fee for Hickory Farms Subdivision, Section II.

Commissioner Parlett moved, seconded by Commissioner Dean, to accept said Economic Impact Fee Agreement. All Commissioners voted in favor.

REQUEST FOR BUILDING PERMIT FEE ABATEMENT HARRY LUNDEBERG SCHOOL

The County Administrator presented a request from the Harry Lundeborg School for reimbursement of building permit fee in the amount of \$656 for a vocational classroom. Inasmuch as this request complies with the County's Resolution No. 75-53 "Abatement of Building Permit Fee", Commissioner Parlett moved, seconded by Commissioner Dean, to reimburse this fee. All Commissioners voted in favor.

STATE ROUTE 235 RECONSTRUCTION SPRING VALLEY SUBDIVISION

The County Administrator presented correspondence for the Commissioners' review and signatures concerning an evaluation of the effects of drainage in Spring Valley due to the reconstruction of Rt. 235. The Commissioners agreed to sign and forward said letter.

LETTER OF COMMENDATION - THOMAS MOORE

The Commissioners agreed to sign and forward a letter of commendation to Thomas Moore expressing gratitude for his design and inspection services for the County Engineer's office without compensation.

GROUP HOME FOR THE MENTALLY RETARDED TASK FORCE

Present: Ed Guthrie, Chairman
Paul Ludwig
Linda Schucker

The referenced individuals appeared before the Commissioners to discuss the amendments to the Mental Retardation Administration Regulations 10.05.03 and to recommend to the Commissioners corrections to certain omissions in the Regulations. These recommendations, as well as specific recommendations set forth by sections, are enumerated in the November 8 memorandum from the Task Force.

After review and discussion of the recommendations, the County Commissioners directed the County Administrator to draft a letter for their signatures expressing the County's support and endorsing the Task Force's recommendations.

GOLDEN BEACH ROAD
CLOSE-OUT OF PROJECT

Present: John Norris, County Engineer

Mr. Norris presented to the Commissioners several documents pertaining to the close-out of the Golden Beach Road project:

1. \$22,000 credit to the County for quantities not used;
2. Final Force Account Payment in the amount of \$1940.93;
3. Final payment to B.F. Asher in the amount of \$68,595.83
4. Consent of surety.

Mr. Norris advised that once his office verifies quantities by the inspector and contractor and paperwork is in proper form, the account can be closed out. Therefore, Mr. Norris requested authority for Commissioner McKay to sign any necessary appropriate documents.

Commissioner Jarboe moved, seconded by Commissioner Parlett, to authorize Commissioner President McKay to sign appropriate documents once all paperwork is in proper order. All Commissioners voted in favor.

ST. INIGOES SUBDIVISION

Present: John Norris, County Engineer

Mr. Norris advised that there is a Certificate of Deposit with the First National Bank in the amount of \$12,600 for the referenced subdivision. The developer is requesting a release of \$10,000 for the work done to date. In that there are ample funds to complete the work and work to date has been satisfactory, Mr. Norris recommended approval of this release.

Commissioner Parlett moved, seconded by Commissioner Jarboe, to accept the County Engineer's recommendation. All Commissioners voted in favor.

FRIENDLY PINES SUBDIVISION

Present: John Norris, County Engineer

Mr. Norris stated that \$1500 was received in settlement of the referenced matter and that \$8,000 is needed in order to complete the roads in Friendly Pines.

After discussion, Commissioner Jarboe moved, seconded by Commissioner Dean, to appropriate funds, sources to be determined by Budget Officer, in order to complete the roads in Friendly Pines Subdivision. All Commissioners voted in favor.

FUNDAMENTALS OF SANITARY LANDFILLS COURSE
COUNTY ENGINEER'S OFFICE

Present: John Norris, County Engineer

With regard to the request presented at last week's meeting concerning the attendance of certain employees in the Engineer's Office at a Sanitary Landfill Course at Charles County Community College, Mr. Norris expressed the importance of Jay McGrath of his office attending in that St. Andrews Landfill will be requiring design in the future. The Commissioners gave their concurrence if there are funds available in the County Engineer's budget.

ESSEX SOUTH - LEGAL ACTION

Present: Joseph E. Bell, II, County Attorney
Hiram Shapiro, attorney for bonding company
Michael Gross, " " " "

At this time the Commissioner agreed to meet in Executive Session in order to discuss a matter of litigation. The Session was held from 11:15 a.m. to 12:15 p.m.

RESCHEDULING OF REZONING HEARING
CASE NO. ZA 78-167 - ARTHUR MIRFIELD

Because of very probable delay in rendering a decision on the referenced case beyond the term of office of the current Board of County Commissioners, Commissioner Jarboe moved, seconded by Commissioner Parlett, to delay the public hearing on Case No. ZA 78-167, subject to the rescheduling of a date by the incoming Board of County Commissioners. All Commissioners voted in favor.

The Director of Land Use and Development was requested to inform all affected parties.

DATA NEEDS ASSESSMENT OF ST. MARY'S COUNTY

Present: Joseph O'Dell, Budget Officer

Mr. O'Dell presented a letter addressed to the National Science Foundation for the Commissioners review and signatures affirming the County's support and cooperation in completing a Data Needs Assessment of St. Mary's County to be conducted by University of Maryland and requesting that this proposal be given priority. Mr. O'Dell explained that the grant to have this study conducted is in the amount of \$9,000.

Commissioner Dean moved, seconded by Commissioner Jarboe, to approve the application for the grant in order to conduct the referenced study. All Commissioners voted in favor.

HOUSEKEEPING AMENDMENTS - ZONING ORDINANCE

Present: Frank Gerred, Director, Land Use and Development

Having conducted a public hearing on October 18, 1978 on various proposed housekeeping changes to the Zoning Ordinance which are intended to provided clearer public understanding and simplification and after certain recommended changes by the County Commissioners, Commissioner Jarboe moved, seconded by Commissioner Parlett, to adopt the housekeeping amendments in the Zoning Ordinance as presented by the Office of Land Use and Development, with the exception of Item (5) of 32.01.4 which calls for self-contained privies at roadside stands. All Commissioners voted in favor.

REZONING HEARING DISCUSSION
CASE NO. 77-127
HAROLD A. AND MARGARET DUFFY

Present: Frank Gerred, Director, Land Use and Development

(Commissioner Parlett excused himself from participating in that he did not participate in the original hearing.)

Having conducted a public hearing on the application of Harold A. and Margaret Duffy to have approximately four acres off of Md. Rt. 415, property known as Scotland Beach Hotel, First Election District rezoned from

R-1, Rural Residential to CM, Commercial Marine, and having reviewed comments from adjacent property owners as to commercial use on Tanners Creeks, Commissioner Jarboe moved, seconded by Commissioner Dean, to request the County Attorney to draft the appropriate Resolution for review by the Board of County Commissioners setting forth the findings of fact for granting approval of this rezoning application on the basis of mistake and inasmuch as similar properties were zoned Commercial Marine in 1974 and this was left as a non-conforming use, and because of the long-time commercial use of the property. This application is approved with the condition that there be no commercial development on Tanner's Creek, and any change in this condition would have to go through the normal process as an amendment to the Zoning Ordinance, and further to exclude the less than one acre parcel on the southwest side separated by the road. All Commissioners present voted in favor.

Mr. Gerred was directed to work with the County Attorney in drawing up the appropriate Resolution.

DECISION DISCUSSION

ZONING CASE NO. ZA 78-166

PARAGON BUILDERS, INC. (WILDEWOOD)

Present: Frank Gerred, Director, Land Use and Development
Gerry Smith, Assistant Planner

(Commissioner Parlett excused himself from participating in the discussion because he was not present at the hearing.)

Having conducted a public hearing on September 27, 1978, on the application of Joseph A. and Alice Waldschmitt and Paragon Builders, Inc, (Wildewood) - PUD Case No. 78-166 for the rezoning of property located on St. Andrews Church Road and Md. Rt. 235 in the 6th and 8th Election Districts as follows - approximately 25 acres from I-1, General Industrial to C-2, Commercial, approximately 162 acres from I-1, General Industrial, to R-2, Low Density Urban Residential, said property to be included with approximately 347 acres now zoned R-1 Rural Residential, in and rezoned a Planned Unit Development PDR 3.5, PDR 5.0, and PD-CP, all identified and a part of the Development Plan for Wildewood PUD, the Commissioners continued discussion of this matter.

After discussion, Commissioner Dean moved, seconded by Commissioner Jarboe to approve the PUD as applied for and further to approve the rezoning of the property from Industrial to Residential because this is needed in order for the PUD to be approved, based on the fact that:

1. The PUD is in an area of the County where the Comprehensive Plan calls for urban-type development;
2. It is in an area where it is needed;
3. The infra-structure is in place or planned to support this type of development;

4. It is consistent with the concept for the development that was originally proposed and approved by the County;

5. It meets the requirements contained in the Zoning Ordinance for a PUD as proposed.

The basis for rezoning of the land from Industrial to Residential lies in the fact that the Office of Land Use and Development has through a process of inventory and evaluation determined that the County has significantly more land zoned industrial than is needed in the foreseeable future. A related fact is the lack of the needed infrastructure to develop the land industrially.

Therefore the approval is based on mistake and that this approval is consistent with the Comprehensive Plan and the various Ordinances of the County.

All Commissioners present voted in favor.

The Director of Land Use and Development was requested to work with the County Attorney in developing the appropriate adopting resolution which includes the findings relating to the PUD and also the zoning amendment resolution;

RURAL SERVICE CENTERS
CALLAWAY NEIGHBORHOOD ZONING AMENDMENTS

Present: Frank Gerred, Director, Land Use and Development

After discussion of the various aspects of the referenced zoning matters and rural service centers and community service centers as it relates to the Callaway neighborhood, the following motions were made and voted on:

Commissioner Millison moved, seconded by Commissioner McKay, to grant C-2 zoning to Mary O. Callaway (Case No ZA 78-131) and Elizabeth Phillips (Case No. ZA 78-132) based on change in the neighborhood and mistake in the original zoning. Two Commissioners voted in favor, with Commissioners Dean, Jarboe and Parlett voting against.

Commissioner Dean moved, seconded by Commissioner Jarboe, to rescind the motion of last week which amended the Comprehensive Land Use Plan to include the Callaway neighborhood in the list of Community Service Centers, and instead amend the Comprehensive Land Use Plan to add, in addition to the concept of Community Service Centers, the concept of a Rural Service Center.

All Commissioners voted in favor.

Commissioner Dean moved, seconded by Commissioner Jarboe, that the Callaway area be designated as a Rural Service Center with the boundaries as drawn and designated to the Office of Land Use and Development by the Commissioners the previous week. All Commissioners voted in favor.

Commissioner Dean moved, seconded by Commissioner Jarboe, to amend the Zoning Ordinance to include a Rural Service Center zoning District with the following permitted uses and the following Conditional Uses:

RURAL SERVICE CENTERS

PERMITTED USES

Barber or beauty shop
Office, business or professional
Nursery school
Volunteer Fire and Rescue Squads
Residential - R-2 density
Drug Stores
Antique Shops
Banks and Financial Institutions
Food, grocery and meat stores
Hardware and building supply
Donut and coffee shops
Government and Public utilities
Gas and Go
Agriculture, forestry and fishing
Multi-family dwellings
Filling stations
Auto parts and accessories
Carpentry or woodwork shops
Monument sales
Printing, etc.
Sign paint shops
Eating establishments
including drive-ins
Agricultural implements

CONDITIONAL USES

Funeral homes
Theatres
Auto repair garage
Auto sales and service
Animal hospital and
veterinary clinic
Bottling and Distribution
of Beverages
Bowling alleys
Sheet metal shop
Trailer and mobile home sales
Wholesale bus warehouse
and service establishment
clubs, lodges, meeting halls
Tavern or Bar
Commercial Marine Uses

Four Commissioners voted in favor with Commissioner McKay voting against.

Commissioner Dean moved, seconded by Commissioner Jarboe, to request the Office of Land Use and Development to initiate a process whereby the Conditional Uses listed for Rural Service Centers be reviewed to see which of those could be handled as permitted uses by special exception rather than a conditional use. Four Commissioners voted in favor, with Commissioner McKay voting against.

ZONING DECISION RESOLUTION NO. Z-78-5

LEONARD S. REBARCHICK

ZONING CASE NO. 78-125

Present: Frank Gerred, Director, Land Use and Development

Commissioner Dean moved, seconded by Commissioner Jarboe, to approve and sign the referenced Zoning Decision Resolution No. Z-78-5 approving the rezoning of Parcel 158, Map 34 from R-1, Rural Residential, to C-2 Commercial and denying the request for rezoning of Parcel 293, Map 34. All Commissioners voted in favor.

ZONING AMENDMENT DISCUSSIONCASE NO. ZA 78-126 - BRETON BAY PUD

Present: Frank Gerred, Director, Land Use and Development
Robert H. Levan, Attorney for Applicant
Henry T. Waring, Applicant
Charles Norris, Attorney for Applicant
Dick Sothern, Attorney for opposition
Paul Zenicki, Attorney for opposition
Earl Lurette, opponent
(other interested parties)

(Commissioners McKay and Millison did not participate in the session.)

Mr. Sothern, Attorney on behalf of the opposition presented to the Commissioners a Motion to Remand the referenced matter back to the hearing stages alleging among others reasons an incomplete record and improper notification.

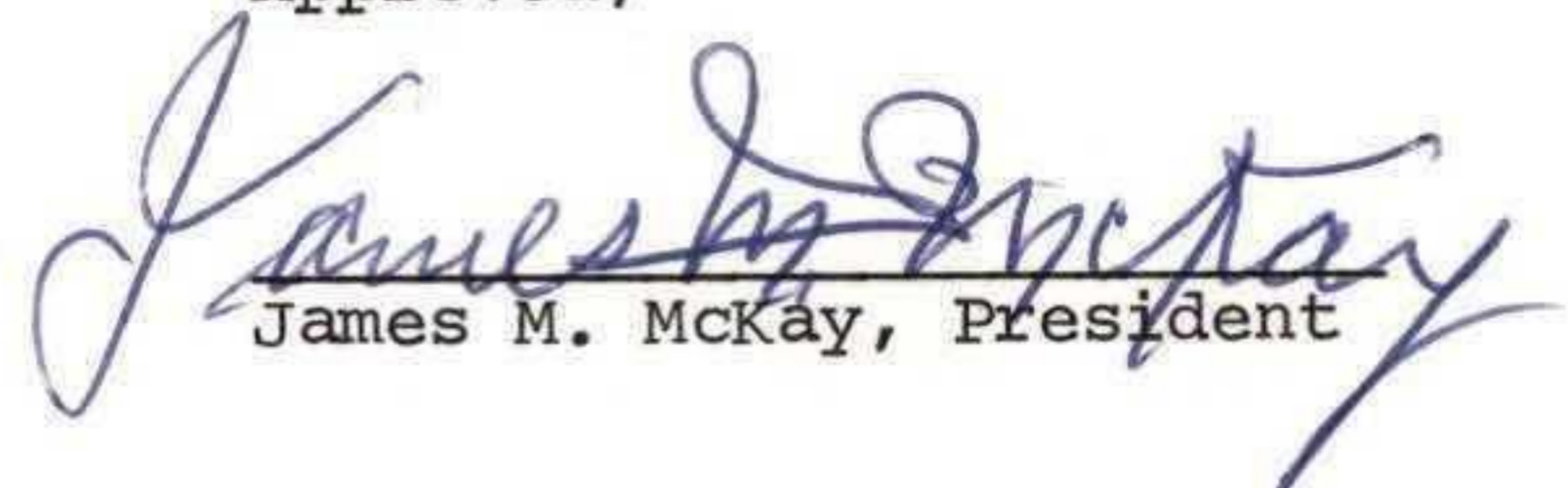
After some discussion the Commissioners indicated that they believed the record was sufficiently complete to meet decision-making needs and that the questions raised did not appear serious enough to void making a decision at this time. Accordingly, Commissioner Jarboe moved, seconded by Commissioner Dean to deny the Motion to Remand. All Commissioners presented voted in favor.

At this time the Commissioners reviewed the proposed Findings of Fact and after discussion, Commissioner Dean moved, seconded by Commissioner Jarboe to adopt the Findings regarding the Breton Bay PUD as presented and reviewed, pending approval by the County Attorney as to legal sufficiency. All Commissioners present voted in favor.

After review and discussion of the proposed adopting Resolution, Commissioner Dean moved, seconded by Commissioner Jarboe, to authorize the Director of Land Use and Development to have typed the adopting Resolution in final form and that said Resolution be approved by the Board, pending review by the County Attorney as to legal sufficiency and review again next week by the Board of County Commissioners. All Commissioners present voted in favor.

The meeting adjourned at 4:45 p.m.

Approved,


James M. McKay, President

November 8, 1978

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