

BOARD OF COUNTY COMMISSIONERS'S MEETINGTuesday, April 21, 1981

Present: Commissioner George R. Aud, President  
Commissioner Richard D. Arnold  
Commissioner Ford L. Dean  
Commissioner David F. Sayre  
Edward V. Cox, County Administrator  
Judith A. Mullins, Recording Secretary

(Commissioner Larry Millison was not present at the opening of this meeting.)

The meeting was called to order at 9:10 a.m.

ELECTION BOARD OF SUPERVISORS

In response to the request by the Board of Election Supervisors on April 7, 1981, the County Commissioners gave their concurrence for the creation of a part-time contractual position, Data Coordinator, at \$5.48 per hour.

ROAD RESOLUTION R-81-22  
GILLENS GROVE

On behalf of the County Engineer, the County Administrator presented the referenced Road Resolution setting the speed limit on the following roads in Gillens Grove Subdivision, Sixth Election District: Allston Lane, Anne Court, Henry Court, Keith Court, Kenneth Court.

Commissioner Arnold moved, seconded by Commissioner Dean, to authorize Commissioner President Aud to sign said Road Resolution. All Commissioners voted in favor.

APPOINTMENT TO ZONING BOARD OF APPEALS

Commissioner Aud moved, seconded by Commissioner Arnold, to appoint James C. Raley to the Zoning Board of Appeals for a term to expire December 31, 1983. All Commissioners present voted in favor.

DEED AND SETTLEMENT SHEET  
PROPERTY AT CHARLOTTE HALL SCHOOL

The County Administrator presented a Deed dated April 21, 1981 by and between the Board of County Commissioners and the State of Maryland to use the Board of Public Works and the Settlement Sheet prepared by Briscoe, Kenney and Kaminetz for 59.656 acres at Charlotte Hall for the Maryland Veterans Home.

Commissioner Dean moved, seconded by Commissioner Arnold, to accept the Deed and authorize Commissioner President Aud to sign the Settlement Sheet and the Board to sign the Deed. All Commissioners present voted in favor.

RAILROAD RIGHT-OF-WAY EASEMENT AGREEMENT

The County Administrator presented the Southern Maryland Easement Agreement to cross the railroad right-of-way for property owned by National Mobile Home Sales, Inc., Eighth Election District. The Commissioners gave their concurrence to authorize Commissioner President Aud to sign said Agreement.

WILDEWOOD SUBDIVISION  
RESOLUTION NO. 78-09  
PLANNING, ZONING AND PLUMBING FEES

Present: Eddie Wettengel, developer, Wildewood Subdivision  
John Norris, County Engineer  
Frank Gerred, Director, Office of Planning and Zoning

Mr. Wettengel appeared before the Commissioners to express his concerns with a consultant fee as contained in the referenced resolution under Subdivision Plat Review. He stated that the County Engineer's Office presented him with a bill in the amount of \$412 for a plat review by The Ballard Company which was for the period of June 1, 1979 to July 1, 1979, and made the following points relative to this bill and any future fees:

1. The fact that the bill from The Ballard Company was two years old;
2. The County Engineer's Office reviews construction drawings not subdivision plats;
3. If a consultant fee is to be charged, the developer should have prior knowledge as to what the fee will be;
4. If drawings are prepared by a Professional Registered Engineer for the developer, why should the County Engineer's Office have to review them again.
5. The fact that Wildewood Subdivision had generated \$30,000 of tax base for St. Mary's County last year, which will continue; however, if the developer continues to be burdened with a number of fees, it will take him out of the competitive field.

The County Engineer responded that drawings of a simple, quick and easy nature are reviewed in-house. Those that are

more complex are done by outside consultants. Also, the workload of the office is a determining factor. There is no fee for in-house review. He further stated that all drawings must be reviewed in order to assure proper construction and to have consistency.

The Commissioners expressed agreement that the developer should know "up front" what the costs are going to be, and Commissioner Dean expressed the opinion that he would be concerned if the county relinquished its review process, because there should be a standard for all developments.

After discussion of the points raised by Mr. Wettengel, the Commissioners advised that they would respond to his concerns at a later date.

(Commissioner Millison entered the meeting - 10:30 a.m.)

#### SOCIAL SERVICES - OFFICE FACILITIES

Present: Joseph Carter, Director, Social Services  
Renee Dixon, Social Services Board  
Ella Mae Russell  
Sister Emily Ann Appleton  
Susie Camp  
Richard Buckler

The Social Services Board met with the Commissioners to continue the County's review of the need for a new Social Services facility. Mrs. Dixon acted as spokesperson for the Board and reiterated the Board's evaluation that a new facility was needed to combine the now-scattered service delivery sites. The Social Services Board recommends that the new facility be located at the Governmental site; that they originally estimated and state-approved square footage of 17,000-17,500 be used for designing the facility; and that the County initiate as soon as possible the design of the facility as requested by the state in correspondence dated February 6, 1981.

The Commissioners thanked the Social Services Board for its continuing evaluation of this problem indicated that a joint-committee of county staff and social services representatives would be appointed to further develop a definite proposal for the construction and operation of the recommended facility.

Later in the day the Commissioners authorized the County Engineer to develop an architectural/engineering proposal for the general design of a new facility. Also, the Commissioners appointed the County Administrator, the County Engineer and Budget Officer to serve with representatives of the Social

Services Board in the development of a firmer proposal. The Commissioners requested that among the alternatives, consideration be given to the St. Mary's Academy site as proposed by Sister Emily Ann Appleton.

ZONING ORDINANCE  
HISTORIC DISTRICT AMENDMENTS

Present: Frank Gerred, Director, Planning and Zoning  
Linda Bronsdon, Assistant Planner

Having conducted a public hearing on the Historic District Amendments to the Zoning Ordinance and having presented a draft of the proposed Resolution adopting these amendments, the referenced individuals appeared before the Commissionerw to review the draft and to obtain the Commissioners' comments.

Ms. Bronsdon noted that at the last Historic District meeting the members voted not to select any land for Historic District designation unless the property owners are 50% in favor.

During discussion, Commissioner Millison noted for the record that he was very much opposed to passing any regulation telling people what they could do with their property, what colors they can paint, what renovations they should do. He stated he was interested in preserving history and was very proud that he lives in a county like St. Mary's County which has a beautiful history--the birthplace of religious tolerance. In the name of righteousness many rights have been taken away from people. Commissioner Millison concluded by stating that he was dubious of the rights to establish historic districts when you say one hand what it will accomplish and say on the other hand what it will destroy.

Commissioner Dean stated that the question before the Board is whether or not to amend the Zoning Ordinance and the amendment is to simplify and clarify the mechanism of the historic district section of the Ordinance. He stated that it did not dictate what a property owner had to do and that this action does not create any historic district. The actual creation of an historic district has to go through an established procedure and there are in the County owners of property of historical significance who would like to have, by their own volition, their property put in an historic district.

Commissioner Arnold reiterated his previous concerns that a property owner would have this forced upon him if 50% of the property owners consented to have it placed in an historic district. He stated that he would not vote for anything that would force something upon anyone. He further stated that if an individual was interested in placing his property in an historic district there were other mechanisms that he could use as long as the property met all the necessary criteria.

In conclusion, Commissioner Dean suggested that the members of the Historic District Commission and the ad hoc committee appear before the Commissioners to review what is being proposed inasmuch as they are the group that prepared the proposed amendments. The Commissioners gave their concurrence.

#### PLANS FOR OAKVILLE TRANSFER STATION

Present: John Norris, County Engineer

Mr. Norris presented the plans for the retaining wall at Oakville landfill transfer station for the President of the Board's signature.

Commissioner Arnold moved, seconded by Commissioner Dean, to authorize Commissioner President Aud to sign said plans. All Commissioners voted in favor.

#### JAMES DOBRY VS. METROPOLITAN COMMISSION

Present: John Norris, County Engineer

Mr. Norris advised the Commissioners that he was summonsed to testify in the referenced court case. The Commissioners recommended that Mr. Norris turn it over to the County Attorney who should determine what documents Mr. Norris would need to take with him.

#### DREDGING OF ST. JEROMES CREEK AGREEMENT WITH DEPARTMENT OF NATURAL RESOURCES

Present: John Norris, County Engineer

Mr. Norris presented a Waterways Improvement Project Agreement between the State of Maryland, Department of Natural Resources, Waterways Improvement Program and St. Mary's County Board of Commissioners for the hydraulic dredging of the South Prong Channel of St. Jeromes Creek. He stated that the Agreement clarifies the position between the State and County with the County acting as the State's agent.

Commissioner Dean moved, seconded by Commissioner Arnold, to approve and sign said Agreement. All Commissioners voted in favor.

DREDGING OF ST. JEROMES CREEK  
AGREEMENT WITH SMITH BROTHERS  
PROJECT NO. SM 81-3-2

Present: John Norris, County Engineer

Mr. Norris presented contract between the Board of St. Mary's County Commissioners and Smith Brothers for the dredging of the South Prong of St. Jeromes Creek.

Commissioners Sayre moved, seconded by Commissioner Arnold, to authorize Commissioner President Aud to sign said Contract. All Commissioners voted in favor.

ADDENDUMS TO PUBLIC WORKS AGREEMENTS  
WILDEWOOD SUBDIVISION, SECTION I, PLAT 4  
WILDEWOOD SBUDIVISION, SECTION I, PLAT 5

Present: John Norris, County Engineer

Mr. Norris presented the referenced Addendums to Public Works Agreements by and between Paragon Builders, Inc. and the County Commissioners of St. Mary's County as follows:

1. Section I, Plat 4 - extending the deadline for completion of roads to April 10, 1982;
2. Section I, Plat 5 - extending the deadline for completion of roads to May 15, 1982.

Commissioner Sayre moved, seconded by Commissioner Arnold, to accept and authorize Commissioner President Aud to sign said Addendums. Four Commissioners voted in favor, with Commissioner Dean abstaining. Motion carried.

ASPHALT CONTRACT - INSPECTION SERVICES

Present: John Norris, County Engineer

As recommended by the County Engineer, Commissioner Arnold moved, seconded by Commissioner Sayre, to authorize the County Engineer to employ John B. Love at the rate of \$4.50 per hour for inspection services for the Asphalt Contract. All Commissioners voted in favor.

TRADE-IN VEHICLES - SHERIFF'S DEPARTMENT

In response to a request by the Sheriff's Department, the Commissioners authorized the Sheriff to keep one of the nine trade-in vehicles, a 1978 Plymouth, to be used in traffic safety, pursuit driving, and training for the Sheriff's Department.

BRETON BAY CONFERENCE CENTER  
REQUEST FOR MIDFA FINANCING

Present: H.T. Waring, Developer  
Frank Gerred, Director, Planning and Zoning  
Arthur "Buck" Briscoe, Director, EDC

(Commissioner Millison did not participate.)

Mr. Gerred explained to the Commissioners that the purpose of this meeting was for Mr. Waring to obtain an endorsement from the Board of County Commissioners so that he can proceed to get financing assistance from Maryland Industrial Development Financing Authority for the Conference Center at Breton Bay.

After discussion, Commissioner Dean moved, seconded by Commissioner Sayre, to direct the Director of Planning and Zoning to prepare the appropriate letter of endorsement and the Commissioner President Aud be authorized to sign said letter. Four Commissioners present voted in favor.

REZONING DECISION DISCUSSION  
LEONARD S. FULCHER  
ZONE #80-2651

Present: Frank Gerred, Director, Planning & Zoning  
Anita Meridith, Recording Secretary

Application requesting rezoning of approximately 8½ acres located at the corner of Hermanville Road and Maryland Route 235, Lots 500-1 - 500-5 of Hermanville Estates, in the 8th Election District on Tax Map 52, Block 8, a portion of Parcel 144. Request change of zoning from AR, Agricultural Residential, to C-1, Commercial.

County Commissioner President George Aud and Commissioner members Richard Arnold, Ford Dean, Larry Millison and David Sayre were present during the ensuing discussion and decision rendering meeting held this date regarding the above captioned rezoning request for Leonard S. Fulcher.

Commissioner Dean noted that following his review of the case record, he found that the pertinent facts were contained in the record, noting that he was basically in concert with the recommendation of the Planning Commission and staff and would be agreeable that the application be denied based on the reasons as set forth in the Assistant Zoning Administrator's report.

Commissioner Arnold reflecting on the facts that the applicant had owned the property since 1967, having purchased the property with the understanding that the land was commercial and being told by the Board of County Commissioners at that time, that the land would retain its commercial zoning status, felt that it would be an injustice not to grant the rezoning. Commissioner Arnold stated that he felt that it was unconstitutional to participate in a taking without compensation.

Commissioner Dean reflected that this was a case of speculative rezoning as the applicant had not stated any intended purpose for the property. He continued that rezoning of this parcel would result in a straddling of the intersection, where there was no real need for additional commercial development. Mr. Dean also commented that he did not feel that the applicant had presented adequate evidence to support the change or mistake rules in this request.

Commissioner Aud concurred with Commissioner Arnold, noting that the applicant had bought the property with the understanding that it was commercial. He felt that there would be no real impact on the road and added that adjacent property was already zoned C-1.

Commissioner Arnold motioned that the Board approve Mr. Fulcher's application ZONE #80-2651 and grant C-1 zoning, for the reason that Mr. Fulcher has owned the property since 1967 and was advised by the County Commissioners in 1973 that it would remain commercial.

The motion was seconded by Commissioner Sayre.

Commissioner Dean voted naye with all remaining members voting in favor of granting the C-1 rezoning request. The motion passed with the rezoning to C-1 being granted.

#### CONSIDERATION OF TEXT AMENDMENT ADOPTION

Mr. Gerred reminded the Board that these proposed amendments would: create a new district, CLO - Commercial Limited Office and would amend Section 36.01 to allow residential uses for caretaker purposes in the I-1 District.

It was the concensus of the Board, that the Planning staff proceed with the changing of the text, to initiate those proposed changes to the Zoning Ordinance.

Discussion ensued wherein the Board concurred that it should not limit this new CLO district to particular situations, but to those various cases which might apply.

Said Resolution will be prepared by the OPZ staff for the Commissioners signatures.



JANITORIAL POSITION  
OFFICE OF PURCHASING AND LOGISTICS

The County Administrator presented a memorandum dated April 21, 1981 from the Personnel Officer stating that it was the recommendation of Paul Raley, Director of Purchasing and Logistics, to hire Mary Whalan as Janitor, Grade 5.

Commissioner Sayre moved, seconded by Commissioner Millison, to accept this recommendation. All Commissioners voted in favor.

CLERK-TYPIST POSITION  
COUNTY COMMISSIONERS' OFFICE

The County Administrator presented a memorandum dated April 21, 1981 from the Personnel Officer recommending that Sandra Lynn Abell be hired as Clerk-Typist in the County Commissioners' Office, Grade 5.


Commissioner Dean moved, seconded by Commissioner Sayre, to select Sandra Lynn Abell as set forth above. All Commissioners voted in favor.

ESTABLISHMENT OF POSITIONS IN SHERIFF'S DEPARTMENT

In response to a request by Sheriff Somerville, the Commissioners gave their concurrence for the establishment of a Lieutenant of Operations and Lieutenant of Administration in his department and for the deletion of one sergeant position.

The meeting adjourned at 2:15 p.m.

Approved,

  
George R. Aud  
President