

BOARD OF COUNTY COMMISSIONERS'

Tuesday, July 27, 1982

Present: Commissioner George R. Aud, President  
Commissioner Larry Millison, Vice President  
Commissioner Richard D. Arnold  
Commissioner Ford L. Dean  
Joseph P. O'Dell, Director, Budget & Data Services  
Judith A. Mullins, Recording Secretary

(Commissioner Sayre was not present due to illness.)

The meeting was called to order at 9:15 a.m.

APPROVAL OF MINUTES

Commissioner Dean moved, seconded by Commissioner Arnold, to approve the minutes of the Commissioners meeting of July 20, 1982 as submitted. Motion unanimously carried.

APPROVAL OF BILLS

Commissioner Millison moved, seconded by Commissioner Dean, to approve payment of bills as submitted by the Director of Finance, with the exception of Invoice No. 013573 payable to The Belvedere in the amount of \$163.81. Motion unanimously carried.

Commissioner Aud moved, seconded by Commissioner Arnold, to approve the referenced invoice to The Belvedere. Commissioner Millison abstained. Motion carried.

APPOINTMENTS

BOARDS, COMMITTEES AND COMMISSIONS

Commissioner Arnold moved, seconded by Commissioner Dean, to make the following appoints with terms as indicated:

Council on Children and Youth

Greg Fant (youth representative - reappt.)  
(Term to Expire June 30, 1983)

Executive Committee

350th Anniversary Celebration of the Founding of Maryland

Mrs. Pat Biondi	(1st Dist.)
Dave Schumaker	(2nd Dist.)
Gene Carter	(3rd Dist.)
Jane Yowaiski	(4th Dist.)
Dr. William R. Burroughs, Jr.	(5th Dist.)
Harold Insley	(6th Dist.)
Louanne A. Cosimano-Bailey	(7th Dist.)
Donald Strickland	(8th Dist.)
Francis J. Russell	(9th Dist.)

STATE ADVISORY COMMITTEE REPRESENTATION

Commissioner Arnold moved, seconded by Commissioner Millison, to nominate Robert Hill to the State Advisory Committee Representative on the Council on Children and Youth. Motion unanimously carried.

PROPERTY TAX ASSESSMENT APPEAL BOARD

Commissioner Dean moved, seconded by Commissioner Arnold, to forward the following nominations for the Property Tax Assessment Appeal Board for the term that expired June 30, 1982: Elaine Sanger, Charles J. Mattingly, Sr. and Phillip Robrecht. Motion unanimously carried.

EXECUTIVE SESSION

Present: John Pliesse, Attorney  
Mary Calloway  
Joseph E. Bell, II, County Attorney

The Commissioners agreed to meet in Executive Session in order to discuss a matter of Property Negotiation. The Session was held from 9:40 a.m. to 10:25 a.m.

FIRST FRIENDSHIP UNITED METHODIST CHURCH OF RIDGE  
REQUEST FOR BUILDING PERMIT FEE WAIVER

The Commissioners reviewed correspondence dated July 15, 1982 from the Chairman of the Administrative Board of the referenced church requesting a waiver of the building permit fee for the extension of kitchen at the fellowship hall. By memorandum dated July 26, 1982, the Director of the Office of Planning and Zoning confirmed that this request is in compliance with Resolution No. 75-53.

Commissioner Arnold moved, seconded by Commissioner Millison, to approve said request. Motion unanimously carried.

CLERK-STENOGRAPHER POSITION  
RECREATION AND PARKS DEPARTMENT

By memorandum dated July 23, 1982, the Personnel Officer advised that it was recommended that Karen Settle be selected for the position of Clerk Stenographer (Grade 6) in the Department of Recreation and Parks, effective August 2, 1982. Commissioner Millison moved, seconded by Commissioner Dean, to accept this recommendation. Motion unanimously carried.

CLERK-TYPIST POSITION  
OFFICE OF COUNTY ADMINISTRATOR

By memorandum dated July 23, 1982, the Personnel Officer requested authorization to begin the hiring process to fill the Clerk Typist position vacated by the resignation of Tanya Hebb.

Commissioner Aud moved, seconded by Commissioner Arnold, to grant this authorization. Motion unanimously carried.

BUDGET AMENDMENT NO. 83-04  
ST. CLEMENTS ISLAND-POTOMAC MUSEUM

Based on the decision by the Board at last week's meeting to include the two positions at the Museum on the County payroll system, Mr. O'Dell presented the referenced Budget Amendment establishing the budget authority. The Commissioners gave their concurrence in approving said Budget Amendment. The decision with regard to Grade and Step for the positions held by Michael Humphries and Christine Clarke will be decided at the August 10 meeting.

BUDGET AMENDMENT NO. 82-05  
OFFICE ON AGING

BUDGET AMENDMENT NO. 82-06  
COUNTY ENGINEER

Mr. O'Dell presented the referenced Budget Amendments for the Commissioners' review and approval:

- No. 82-05 - To activate Project Gateway
- No. 82-06 - To acquire landfill equipment

The Commissioners gave their concurrence in approving said Budget Amendments.

WILLOW RUN SUBDIVISION  
INSTALLMENT OF CONCRETE CURB AND GUTTERING  
PROJECT NO. SM 81-1-11

On behalf of the County Engineer, Mr. O'Dell, presented the bid talley sheet for the referenced project and recommended awarding the bid to Pipes Unlimited, the lowest bidder, in the amount of \$46,125.

Commissioner Arnold moved, seconded by Commissioner Dean, to accept this recommendation. Motion unanimously carried.

BILL APPROVAL PROCESS

Present: Joseph P. O'Dell, Director, Budget & Data Services

Mr. O'Dell reviewed with the Commissioners the policies and procedures relative to the bill paying process which included discussion of the expenditure approval list as one activity. After discussion, the Commissioners were given a demonstration by Mr. O'Dell of the operation of the Data Services Center.

BENEFICIARIES' CERTIFICATE  
FENWICK MANOR SUBDIVISION, SECTION IV

Mr. O'Dell presented a Beneficiaries' Certificate prepared by Assistant County Attorney, Ted Weiner, for the Commissioners' review and signatures. Said Certificate makes claim on the \$28,000 on the Letter of Credit due St. Mary's County for the completion of roads in the referenced subdivision inasmuch as the Public Works Agreement addendum expired June 30, 1982.

The Commissioners gave their concurrence in signing and forwarding said Certificate.

MARYLAND TRANSPORTATION BONDS

Mr. O'Dell advised the Commissioners that a public hearing has been scheduled on the proposed Maryland Transportation Bonds Ordinance authorizing St. Mary's County to enter into a participation agreement with the Department of Transportation in the amount of \$835,000;

REQUISITION NO. 3  
ST. MARY'S HOSPITAL

Mr. O'Dell presented Requisition No. 3 dated July 26, 1982 requesting reimbursement to St. Mary's Hospital in the amount of \$62,600.87 for project expenses incurred to date.

The Commissioners gave their concurrence to authorize Commissioner President Aud to sign said Requisition.

SITE PLAN APPROVAL  
STSP 82-0632  
PRB ASSOCIATES

Present: Robin Guyther, Assistant Planner

Requesting Site Plan approval for an office building on Lot 20, Section 1 of St. Mary's Industrial Park on Airport View Drive across From Commerce Avenue, 6th Election District on Tax Map 34, Block 1, Parcel 548, currently zoned I-1.

Mr. Guyther presented the referenced Site Plan which was recommended for approval by the Planning Commission at their July 26 meeting. Mr. Guyther stated that two waivers are being requested.

(1) That there be one loading dock instead of two because the applicant was not involved with too much shipping, and

(2) That the landscaping of the parking lot requirement be waived in that the applicant plans to have trees located throughout the surrounding area.

The Commissioners gave their concurrence in approving said Site Plan with the waivers as requested.

REZONING HEARING  
ZONE #82-0243 - LEXINGTON PARK CLEANERS

Present: Commissioner George R. Aud  
Commissioner Ford L. Dean  
Commissioner Larry Millison  
Commissioner Richard Arnold  
Mr. Robin Guyther, Assistant Planner  
Anita Meridith, Recording Secretary

Mr. Robin Guyther, Assistant Planner, Office of Planning and Zoning, read the advertised hearing notice aloud, as it appeared in the published issue of the Wednesday, July 7, 1982 Enterprise newspaper, providing due legal notification of the two following hearings: ZONE #82-0243: LEXINGTON PARK CLEANERS and ZONE #82-0409: JAMES GOLDSBOROUGH.

ZONE #02-0243: LEXINGTON PARK CLEANERS: Waring Associates

Request to rezone approximately .95 acres of land with existing business from R-2, Low Density Urban Residential to C-2, Extensive Highway Commercial. The property is located on Maryland Rt. 246, Great Mills Road in the 8th Election District on Tax Map 51, Block 7, Parcel 26.

Those persons formally noting their presence, via the official "Sign-In Sheet" with respect to the hearing(s) scheduled this date are as follows: Tom Waring, Nicholas Tsirigotis, Ralph Magnus, Herbert N. Redmond, Jr., James M. Goldsborough and Mary Evelyn Goldsborough.

The applicant, Mr. Tom Waring, came forward and presented the postal receipts from the registered letters of notification sent to all contiguous property owners. (Marked Applicant's Exhibit #1)

The applicant advised that the property was legally posted.

Mr. Guyther advised that the Planning Commission had recommended an approval of the subject request for C-2 zoning. Staff advised that the property was a nonconforming use, presently housing the commercial operation known as the Lexington Park Cleaners.

The Planning Commission record was entered into the proceeding at this point.

The applicant offered that the property had been used commercially for thirty-four years and was in an area surrounded by various commercial uses. Mr. Waring stated that R-2 zoning "serves no purpose" and that the original zoning of this property should have been commercial, considering that many similar properties had been designated as C-2 at the time of the County's Comprehensive Zoning in 1974.

The chair inquired if anyone present wished to speak in favor or opposed.

Mr. Nicholas Tsirigotis came forward and advised that he wished his contiguous property (Great Mills Market) be included in this rezoning. He advised that his property was located directly across the street and had been used as commercial property for over thirty years.

The Chair asked what other properties were used commercially in this particular area. Mr. Guyther responded that the three other properties involved were the Midway Bar, Mike's Restaurant and the Great Mills Market. The acreage of those three properties when combined, total less than 3 acres.

Staff advised that registered letters were sent to those aforementioned property owners, asking if they would be interested in having their properties included in this rezoning request. All of the owners responded affirmatively with the exception of the owner of Mike's Restaurant (said correspondence was returned and staff has been unable to contact the owner of that parcel.)

Mr. Guyther pointed out that the public hearing notice gave a total acreage for the subject property of .95 acres, which was in error. The two parcels involved (both owned by the applicant) actually comprise 1.33 acres.

Commissioner Dean noted that since the staff had made a recommendation to include those other three properties and evidence had been given through testimony this date from one of those contiguous owners requesting to have his property included in this consideration, as well as one other written request for inclusion, he suggested that this matter be transmitted to the County Attorney, asking his opinion as to whether those other parcels might be included in this request, considering that there had not been a public hearing involving those other parcels.

There being no further testimony, the Chair advised that the hearing would remain open, pending response from the County Attorney.

SURVEY OF OPINION AND NEED FOR HOUSING

Mr. Gerred advised that a survey had been conducted by staff relative to the need for housing and he offered that an interesting fact had been derived from same, i.e. out of a 20% sample survey of local contractors, the question was asked to project ahead their employment figures for the next three years. The results found were that 819 new employees were projected (born out by growth over the last three years). Mr. Gerred reflected that if those figures were projected "to the universe of those surveyed, that gives you 4,095 new employees projected for the next three years."

Staff advised that all of this survey material was being put on computer and the preliminary findings would be available within the next week.

ZONE #82-0409: JAMES M. GOLDSBOROUGH

Request to rezone approximately 1 acre of property from R-1, Rural-Residential, to C-2, Extensive Highway Oriented Commercial. The property is located at the corner of St. John's Road and Old Maryland Rt. 235, in the 6th Election District on Tax Map 27, Block 19, Residue of Parcel 446 (part was taken by State Highway Administration) and contains approximately 1 acre.

Staff offered that the public hearing notice had been previously read aloud into the record. Those individuals in attendance are also noted under the former rezoning hearing text.

Mr. Goldsborough came forward and offered for the record, the postal receipts from the certified letters of notification sent to all contiguous property owners (Marked Applicant's Exhibit #1). The applicant advised that he had posted the property.

Mr. Guyther briefed the Board that this subject property was located on what will be the intersection of St. John's Road and new dual Rt. 235 having frontage on Rt. 235 and a small amount of frontage on St. John's Road.

Staff advised that the applicant's request was for C-2, however, during initial Planning Commission discussion, the applicant had agreed to a C-1 recommendation by that Board. Thus, the Planning Commission has forwarded to the Commissioners, their recommendation for C-1, with the stipulation that access not be allowed on Rt. 235, but that access be restricted on St. John's Road, to a point (in the record) of some 60 ft. from a certain station which was noted on the plats.

The Planning Commission's complete record of this case, was entered into the proceedings.

Mr. Goldsborough stated, "I would like to dispell the notion that any entrance from a third lane or 235 is not safe." He advised that the State Highway Administration was not saying that this was unsafe and in fact, required a third lane when ingressing into a commercial piece of property.

The applicant gave a visual presentation of the proposed routing of traffic by the staff, which he felt was totally unrealistic. He advised that he had talked with Mr. Ed Wood of the State Highway Administration concerning the entrance and he reportedly had no Administration concerning the entrance and he reportedly had no objection to the applicant's proposal for entrance. However, Mr. Goldsborough advised that Mr. Wood had requested that there be a 150 ft. setback from St. John's Road.

Mr. Goldsborough acknowledged that he would be required to post a bond with the State and he would have to construct the entrance according to SHA specification and consequently, it would be the responsibility of the State to determine the safety factors with respect to ingress and egress.

Commissioner Aud asked the applicant what type of business was proposed for the property. Mr. Goldsborough responded, "A convenience store."

Commissioner Millison felt that the matter of ingress and egress onto the state highway was a matter which was determined solely by the State Highway Administration and that this applicant was entitled to the entrances "that anybody else is entitled to, as long as you meet those specifications." He emphasized that it was not within the Zoning Board's authority to restrict ingress and egress onto a state highway and he felt that it was wrong for the Zoning Board to represent themselves in such manner.

The members reviewed the plats and familiarized themselves with the location of the property and the dualization of Rt. 235.

Commissioner Dean asked the staff to provide him with a photocopy of the map including this subject area.

The Chair inquired whether anyone wished to speak either in favor or opposed. There was no response. Mr. Goldsborough provided that all of his neighbors were in favor of his request.

There being no further testimony, the Chair advised that the hearing would be closed and the request taken under advisement by the Board.

#### DECISIONS/DISCUSSIONS

##### ZPUD #82-0002: ACADEMY HILLS, Pete Breck

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

Application requesting rezoning from R-1, Rural-Residential, to PDR 5.0, Planned Development Residential, 5 dwelling units per acre, for 80.2 acres in order to construct 394 dwelling units and 10,000 sq. ft. of commercial space. The property adjoins Maryland Rt. 5 and the southern most boundary of Leonardtown and is located on Tax Map 32, Block 24. Part of one parcel is in Leonardtown Corporate Limits and part in the County, only, also all of Parcel 71.

Mr. Gerred advised that the County Engineer's Office had been contacted in order to elicit his opinion regarding a letter, previously discussed by the Board, from the Minitec Corporation of Leonardtown, Maryland, which expressed concern with the site distance entrance onto State Rt. 5, south of town, wherein if the proposed design was effected, it could create a confusing and potentially dangerous intersection in front of the Minitec entrance.

Staff advised that following discussion with Mr. Dan Ichniowski, Highway Engineer with the Office of the County Engineer, the staff had been advised that the Minitec driveway and parking area was solely a day use with only one morning rush hour. Consequently, he did not feel that there was any possible conflict with the design.

Following brief deliberation among the Board, Commissioner Dean moved, seconded by Commissioner Arnold, to instruct the County Attorney to prepare the appropriate resolution approving the rezoning and accepting the development plan.

The motion passed unanimously.

Further discussion among the Board ensued and it was agreed that all affected TEC agencies would sign-off on this proposal.

MSUB #82-0104: USHER'S SUBDIVISION

Appeal of Planning Commission's decision which denied approval of a minor subdivision located off an unimproved right-of-way, in the 2nd Election District, Tax Map 57, Block 3, Parcel 132.

Present: Frank Gerred, Director, Planning & Zoning  
Robin Guyther, Assistant Planner  
Anita Meridith, Recording Secretary  
Larry Day  
Mr. and Mrs. Thomas Usher

Commissioner Dean led the discussion and reflected that the issue before the Board with respect to this consideration was what should be the County's policy with respect to the approval of minor subdivisions on private roads, constructed to no standards, when the property is served by a right-of-way. Mr. Dean urged that the Subdivision Regulations were very clear, as written, i.e. that no more than eight (8) lots may be served by private road. The question then arose, does the County approve minor subdivisions on a private road, on a first come, first served basis when there are multiple parcels served by the right-of-way. He felt that the latter practice would be unfair, especially in this case, as there were six other parcels involved, ranging in size from 10 to approximately 40 acres which were served by the right-of-way which did not have frontage on any public road. Commissioner Dean emphasized that if the County were to allow each of these parcels to develop the number of lots allowed (in this R-1 district) there was the possibility of 36 individual lots being developed on this private road, constructed to no standard.

Commissioner Dean stressed that even if the County Commissioners wanted to allow such development, they were prohibited from such approval by the existing regulations. Commissioner Dean felt that it would be a grave mistake to allow large scale development on private roads, built to no standards, as this would create problems that the residents of those homes would demand the County to correct and ultimately would have to be addressed by the County at some point in time.

Larry Day offered that the old St. Mary's Road was a public road, used many years prior, which was no longer maintained by the County. He stated that the 50 ft. existing right-of-way which would be connected to the proposed private road, would be maintained by the residents of this proposed development.



Commissioner Dean stated that the regulations were quite clear, stating that no lot shall be approved unless such lot shall have frontage on and have access from an approved State or County road. The definition for County Road provides that a County Road is a public road or street which is part of the highway maintenance system of St. Mary's County. Mr. Dean stressed that clearly, this abandoned road was not part of the County's maintenance system and therefore, any approval would be in direct violation of the County's Subdivision Regulations.

Lengthy discussion of the Board ensued and Commissioner Millison felt that there should be a covenant which would address the fact that should the residents want to have the road paved at some point in time, that a special taxing district might offer an acceptable alternative to those residents.

The Board discussed the possibility of reviewing the Subdivision Regulations and consider several amendments, e.g. changing the requirement of the width of the roads.

The members collectively agreed that they were not ready to render decision on the matter at this point and instructed the Planning staff to arrange a meeting with the Planning Commission's Attorney and County Attorney in order that they might jointly address the many legal aspects of this request.

#### COMMERCIAL NETTING OF BLUEFISH

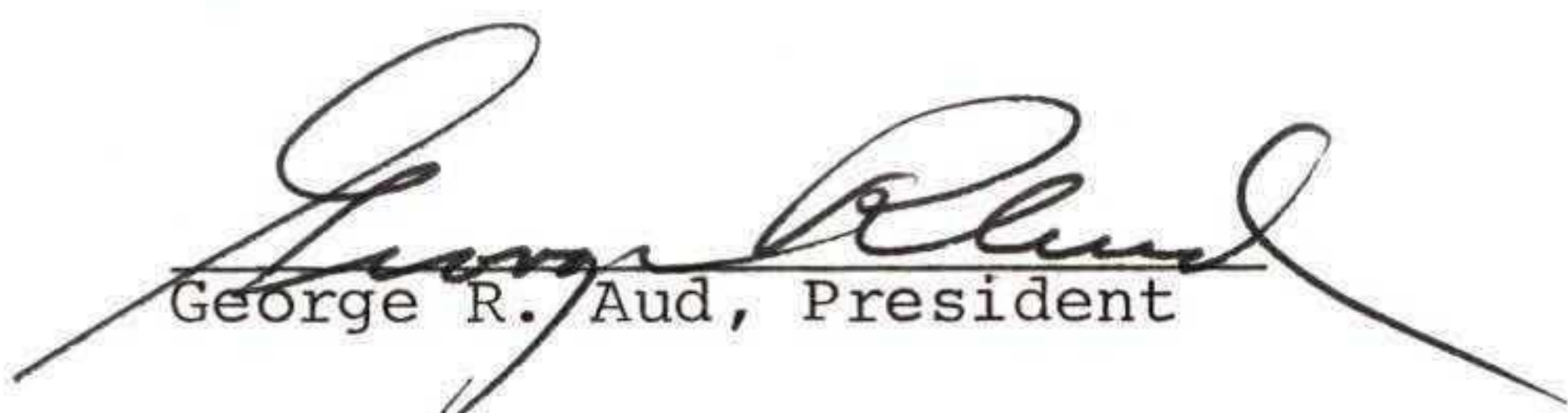
Having received the Resume's of the attorneys presented by Gary Hodge, Director, Tri-County Council, at last week's meeting, the Commissioners advised that they would review them and make a decision at their next meeting with regard to selection for the referenced matter. This time frame would afford an opportunity to see how the communication between Maryland Governor Hughes and Virginia proceeds.

#### COMPUTER EVALUATION COMMITTEE

Commissioner Dean moved, seconded by Commissioner Arnold to appoint Tom Vollman to the Computer Evaluation Committee for a term to expire June 30, 1984. Motion unanimously carried.

The meeting adjourned at 3:00 p.m.

Approved,

  
George R. Aud, President