

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, April 26, 1983

Present: Commissioner George R. Aud, President  
Commissioner Richard D. Arnold  
Commissioner David F. Sayre  
Judith A. Spalding, Recording Secretary

(Commissioner Larry Millison and Ford L. Dean were not present.)

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

APPROVAL OF VOUCHERS

Commissioner Aud moved, seconded by Commissioner Arnold, to approve payment of the vouchers as submitted by the Director of Finance. Motion carried.

APPROVAL OF MINUTES

Commissioner Arnold moved, seconded by Commissioner Sayre, to approve the minutes of the Commissioners' meeting of Tuesday, April 19, 1983. Motion carried.

BUDGET AMENDMENTS

The Commissioners' reviewed the following Budget Amendments recommended for approval by the Director of Budget and Data Services:

No. 83-57  
County Engineer  
Recreation & Parks

To provide budget authority for projects exceeding current authorized budget plus cancel California Park Acquisition with subsequent date. Carry forward amount to be designated prior to FY '84 Budget.

No. 83-58  
Economic Development

To acquire road maps for public distribution by Economic Development Commission.

Commissioner Arnold moved, seconded by Commissioner Sayre, to approve Budget Amendments No. 83-57 and 83-58 as set forth above. Motion unanimously carried.

MOSQUITO CONTROL PROGRAM AGREEMENT

The Commissioners reviewed the Agreement with the Department of Agriculture and St. Mary's County for the Mosquito Control Program for FY '84.

Commissioner Sayre moved, seconded by Commissioner Arnold, to approve and authorize Commissioner President Aud to sign said Agreement. Motion unanimously carried.

CORRESPONDENCE TO LEONARDTOWN COMMISSIONERS

As per the discussion by the Board at last week's meeting, the Commissioners agreed to sign and forward correspondence to the Leonardtown Commissioners regarding the tax differential.

ADOPTION OF POLICY  
JURY DUTY

The secretary informed the Commissioners that due to a situation involving a county employee serving on jury duty, it was recommended by the County Administrator and Personnel Officer that the following policy be adopted:

"Hour for hour paid excused absence up to the total number of hours worked in a given day."

This would be a short-term policy until such time as the Manual of Personnel Policies and Procedures is amended formally in the annual update.

The Commissioners gave their concurrence to establish the referenced policy.

EXECUTIVE SESSION

Present: Walter Dorsey, State's Attorney  
Joe Densford, Assist. County Attorney

Commissioner Arnold moved, seconded by Commissioner Sayre to meet in Executive Session with the referenced individuals to discuss a matter of potential litigation. The Session was held from 9:30 a.m. to 10:00 a.m. The Commissioners continued in Executive Session with the Director of Recreation and Parks, John Baggett, to discuss a matter of land acquisition. The Session was held until 10:30 a.m.

SOUTHERN MARYLAND DRUG ABUSE PROGRAM

Present: Dr. Patricia Hawkins, Director  
Sue Gelrud, Walden Counseling Center Board  
Kathy O'Brien, Walden Counseling Center

The above representatives appeared before the Commissioners to officially present the Maryland State Drug Abuse Administration Distinguished Service Award for 1983. Mrs. Gelrud explained that the St. Mary's County Commissioners are recipient of this award for their outstanding commitment in treatment and prevention of drug abuse in the County.

OFFICE OF COUNTY ENGINEER ITEMS

Present: John Norris, County Engineer

- (1) Project No. SM 78-1-3(B)  
Installation of Concrete Curb and Gutters  
McIntosh Road

Mr. Norris presented the bid tally sheet for the referenced project and recommended awarding the bid to the lowest bidder, J.T. Hayden, Jr., Inc., in the amount of \$19,875.00. Commissioner Aud moved, seconded by Commissioner Arnold, to accept the County Engineer's recommendation. Motion unanimously carried.

- (2) Highway Safety Grant

Mr. Norris referred to a Highway Safety Grant for 100% funding in the amount of \$15,000 for such projects as maintenance standards, performance standards, safety, etc. He stated that he would like to combine this fund with his maintenance department in order to set up computer programs for the acceptance of citizen requests and follow up. Therefore,

Mr. Norris requested authorization for Commissioner President Aud to sign the Highway Safety Grant Application. Commissioner Sayre moved, seconded by Commissioner Arnold, to grant this authorization upon receipt of said Application. Motion carried.

(3) Town's Trash Hauling Permit

Mr. Norris presented correspondence dated April 8, 1983 from the Leonardtown Commissioners requesting consideration in waiving the \$100.00 permit fee for the Town. Mr. Norris recommended that the Commissioners grant this request. Commissioner Sayre moved, seconded by Commissioner Arnold, to waive the \$100.00 trash hauling permit fee. Motion carried.

(4) Asphalt Overlay Program

Mr. Norris presented the Asphalt Overlay Program for FY '84 and requested the Commissioners' approval.

Commissioner Arnold moved, seconded by Commissioner Sayre, to approve the following roads for the FY '84 Program: Bayne Road, Beachville Road, Grayson Road, Rosebank Road, Bull Road, Ponderosa Drive, Asher Road, and Clark's Landing Road. Motion unanimously carried.

(5) Surface Treatment Program

Commissioner Sayre discussed the condition of Piney Point Road and requested that the ditches be cleared and that it be added to the Surface Treatment Program. After discussion it was agreed that this be done.

(6) INSTALLATION OF WATER METER  
LEONARD HALL COMPLEX

For the Commissioners' information, Mr. Norris advised that he was going to proceed with the installation of the water meter which will be done in a different manner than originally planned by bypassing 350 feet of line.

AREA AGENCY PLAN

Present: Billye McGaharn, Senior Services Coordinator

Mrs. McGaharn appeared before the Commissioners to present and request concept approval of the Area Agency Plan for FY '84 (10/01/83 - 9/30/84). Mrs. McGaharn stated that public hearings have been held on the Plan and it is now open for public comment for ten days. She requested that at the end of this time Commissioner Aud be authorized to sign the Plan for submission to the State. In response to an inquiry from the Commissioners, Mrs. McGaharn explained the need for the two proposed new positions in the Plan - Transportation Coordinator and Bus Driver.

After discussion, Commissioner Arnold moved, seconded by Commissioner Sayre, to approve the concept of the Area Agency Plan; however that the proposed positions not be approved at this time pending an evaluation by the County Administrator and Personnel Officer. Motion carried.

REZONING HEARINGS

Present: Commissioner George R. Aud, President  
Commissioner Richard D. Arnold  
Commissioner David F. Sayre  
Robin Guyther, Planner, OPZ  
Peggy Childs, Recording Secretary, OPZ

Commissioners Millison and Dean were absent.

Also present: John Curley, Besche Oil Co., Karen Abrams, Esq., Edward P. Monahan, C.W. Cuffley, Jr., Yvonne Briscoe, Ernestine Briscoe, T.E. Lombard, A.M. Scherzer, G.R. Leah, Jr., W. Richard Lomax, Charles Stamm, Patricia L. Stamm, Ted Malone, Regina Ducksin.

ZONE #82-1464 - BESCHE OIL CO.

Requesting rezoning of .71 acres from R-2, Low Density Urban Residential, to C-2, Highway Commercial. The property is located on Route 246, Great Mills Road, Tax Map 51, Block 7, Parcel 286, Eighth Election District.

Commissioner Aud opened the public hearing at 1:00 p.m. Planner Robin Guyther read aloud the Notice of Public Hearing for both rezoning requests on today's agenda, which notice was published in the Enterprise on April 6th and April 13, 1983.

Present at this hearing, representing the applicant, was Mr. John Curley, of Besche Oil Co., and attorney Karen Abrams. Ms. Abrams presented the Certified Mail Receipts, notifying property owners within 200 ft. of this property of the time and place of this hearing, and produced pictures showing the posting of the property. At this time Mr. Guyther entered the Planning Commission record into these proceedings.

Ms. Abrams presented a color-coded map of the area showing the location of the property and various zonings along Great Mills Road. She defined two areas as the neighborhood of the property, the first being the immediate neighborhood beginning at Patuxent Park and running along Great Mills Road to Route 5, and the second being the general area of Lexington Park - Great Mills, which is designated in the Comprehensive Plan as an urban development district. An urban development district is a large, fluid rural area designed to accept a mix of different kinds of uses and zonings, all of which would be compatible to serve residents of the area. She said this gas and go station, at the corner of Great Mills Road and Chancellors Run Road, has been there for many years, and pointed out two letters in the Planning Commission record from prior managers of the gas station, stating that they had sold milk and bread long before the Zoning Ordinance was adopted. The property was designated as a nonconforming use in 1974 when comprehensive zoning was adopted.

Ms. Abrams said her contention is that it is not necessary for this to be a nonconforming use. When you have an urban mix you can have residential and commercial side by side throughout the area. In the planning world, she said, a nonconforming use is something that is going to go away, that withers and dies, incompatible with the zone that it is in, and she does not think that is true of this property - it's been there for years and has always been used by the residents of the area. Now the owner wants to upgrade it, to make it more useful, more attractive, more efficient. Ms. Abrams presented photographs showing the upgrading of the property. Therefore, Ms. Abrams submitted that it was a mistake not to zone this property commercial in the first place. It is a location that is totally incompatible with residential use, she said.

Also, Ms. Abrams stated, there has been a change in the character of the neighborhood, and she cited several parcels in the area which have been rezoned by this Board of Commissioners to C-2.

As far as impact on the neighborhood, Ms. Abrams said, she thinks this rezoning would minimize it. People who live nearby are going to come get their gas and pick up their bread and milk at the same time, without having to make an extra trip to another store. She showed engineering drawing of the property, showing improvements to the property and the recent improvements to that section of Great Mills Road - there are now four lanes from Chancellors Run Road to the second entrance of Great Mills High School, including left-turn lanes and acceleration lanes on the right.

There was no one present who wished to speak either in favor of or in opposition to this rezoning. The hearing was closed at 1:05 p.m.

SPUD #82-1135 - REILLY PROPERTY

Requesting rezoning from R-1, Rural-Residential, to PDR 1.0, Planned Development Residential, one dwelling unit per acre. The property contains approximately 416.7 acres and is located on MD. Route 235 and Far Cry Road, 1st and 8th Election Districts, Tax Map 59, Block 145, Parcel 4. Rezoning would allow up to 400 dwelling units to be constructed.

Concurrent with the rezoning request is a request to change the classification of the property from W-6 to W-3, and from S-6 to S-3 in the St. Mary's County Comprehensive Water and Sewer Plan.

Planner Robin Guyther explained to the Commissioners that, although the applicants had originally applied for 400 units, after discussions and negotiations with the Planning Commission and John Baggett, Director of Recreation and Parks, they are now proposing 250 units and are willing to donate 40 acres of land to the County for a park. Mr. Guyther introduced Mr. Ted Lombard, who entered Certified Mail Receipts and stated that he had posted the property. Mr. Guyther entered the Planning Commission record into the proceedings, noting the Planning Commission's recommendation for 250 units with provisions for a park.

Mr. Lombard stated for the record that he is a principal and partner in this application. He stated the property consists of 416 acres and is located approximately 4 miles south of Patuxent NAS on Route 235. The property has been held by the petitioner since January, 1968. What he is requesting is ultimately 250 mixed units comprised of 120 detached single family dwellings and the balance in multi-family, with 6 acres of commercial, following the line of the Interceptor Sewer. 186 acres of the property, Mr. Lombard said, will remain in a tree farm which will be given as a gift to the Boy Scouts of America. In addition, 40 acres have been offered to the County for a water recreational area. Mr. Lombard said the plan represents 6 months of planning and, as a result, the neighbors who came out en masse at the first meeting indicating opposition to the plan, at the next to last meeting Mr. Ted Malone, who represents the citizens' association, indicated that they are in agreement with the plan as shown before the Commissioners today.

Mr. Lombard introduced Mr. Andy Scherzer, engineer, who made a presentation to the Commissioners, using color-coded charts of the property showing proposed development, the tree farm and waterfront area (see Planning Commission record).

Commissioner Arnold asked who would build the road back to the waterfront area. Mr. Lombard explained that the applicant would give both the County and the BSA right-of-way. He said there is a logging road on the property that goes from Route 235 to the recreation area which the applicant will finish to a certain point. Then if the County wants to

wait until the applicant finishes the road they can do so; if not the County may build a gravel road itself, as long as it is built to specification so the applicant can finish it off.

Commissioner Aud asked if there was anyone present who wished to speak in favor of the request; there was no one. He stated for the record that, although Commissioners Dean and Millison were absent, the record would be open to them and they would be voting on this request.

Commissioner Aud asked if there was anyone present who wished to speak in opposition. Ms. Ernestine Briscoe said she is opposed to the cocommercial rezoning; she would rather keep it residential.

Mrs. Patricia Stamm said she is opposed to the requested rezoning. She said her property is adjoining that of the applicant and she has not been notified of any meeting except the first one, so she said she is picking up her information from the newspapers. She said the paper stated the applicant is proposing to give 1,000 ft. of waterfront to the County and she has tax maps that say the applicant only has 750 ft. of waterfront without coming on to her property, and she said the waterfront is eroding something fierce. She showed the Commissioners a map that shows 180 ft. more land in 1932 and houses on the property; there is no sign of those houses today, not even the foundations. As far as Mr. Lombard being concerned with the welfare of his neighbors, she said, she has contacted him many times about people misusing his land and live bullets flying through her yard. She said she has asked Mr. Lombard to block off that road in some way and he has never done it, and shows no concern, doesn't do anything to protect her now when no one is living there, so she doesn't think he will be concerned about his neighbors when he does have people there.

Ms. Yvonne Briscoe, whose property is on old Route 235, said she is opposed to the rezoning.

Mr. Richard Lomax said he has not been officially notified of this hearing. He said the letter was addressed to the previous owner. He asked Mr. Lombard what citizens' organizations have approved the plan. Mr. Lombard explained that at the first meeting before the Planning Commission a Mr. Ted Malone was representing 40 or 50 people as the president of their group. He said he had met with Mr. Malone once himself and the engineers had met with him on two occasions and completely walked the property. Mr. Malone suggested alternatives and, at the next to the last meeting, Mr. Malone stated, for the record, that the citizens association of the area was in agreement with the plan. Commissioner Aud read from the case record that Mr. Malone was "representing united opposition of the neighbors of the Reilly property."

Mr. Lomax pointed out that this area is the last unexploited paleontological area on the east coast; it has artifacts of absolutely inestimable value to the history of civilization. Only last week, he said, one of his neighbors discovered a very rare fossil on the beach. He said he doesn't want this spoiled and run over by boy scouts or anybody else. Also, he said, the environmental impact would be disastrous. What will it do to the water table, to the wells of people that are not served by water and sewer, he asked. Mr. Guyther pointed out that any well drilled to serve this property will have to go down to the next aquifer down, they will not be allowed to go into the aquifer where individual wells are.

Mr. Ed Monahan, adjacent property owner said, for the record, that Mr. Malone does not speak for him. He said he had the impression that the interceptor sewer was laid down for the expansion of St. Mary's College, not depicted. As far as a tree forest, he said, that is a joke - the property has been raped; there is not a marketable tree left on the property. Mr. Monahan said he has just put his farm in a permanent farm; he has just finished putting in 1,000 ft. of seawall at his expense, and said he can't see some boy scouts climbing over his seawall, because there is no beach left. He said he takes exception to the commercialism, and said he lives quite well 5 miles away from Lexington Park, and

doesn't need a commercial area there. Also, he said, using the applicant's figures, less than 20% of the people in the County will qualify to live there, so do we really need it? Mr. Monahan said he is vehemently opposed to it, and he is opposed to it because he lives there; he doesn't live somewhere else going to make a buck there.

Mr. Ted Malone, adjacent property owner, said at the last neighborhood meeting the citizens came to a rough agreement that none of them liked the development, they preferred to have it completely undeveloped. At that time they were looking at 400 units, and when it was cut to 250 he took it on himself to say that the neighborhood organization would go along with it.

Mr. Malone asked how many boy scouts would be using the property. Mr. Lombard said he thought the record stated 4-12 people on a weekend, and said there will be no permanent installation on the property except maybe for a lean-to to be used on weekends. Mr. Malone asked what if, ten years from now, they decide to put a building on it. Mr. Lombard stated that the covenants would run with the land - if the property is sold at some point in the future, the covenants will still apply. Mr. Malone asked about Eddie Taylor's property. Mr. Lombard said they had had the property surveyed, and on the basis of that survey, they had proceeded. He said no one has ever come forward saying that they are encroaching on Mr. Taylor's property. If they are shown to be wrong, however, they would accommodate that.

Mr. Stamm reiterated her concern that the applicant is encroaching on her property. Commissioner Aud said if this is true, Mrs. Stamm may have a legal matter between herself and the applicant, but this hearing is not to decide property lines and the Board of County Commissioners does not have that authority.

Mrs. Regina Ducksin said she was concerned about the park, which would be right across from her property. Mr. Aud said no decision has been made by the County as to whether they will accept the property, and if it is accepted by the County it will be a water-oriented park and not baseball fields, etc.

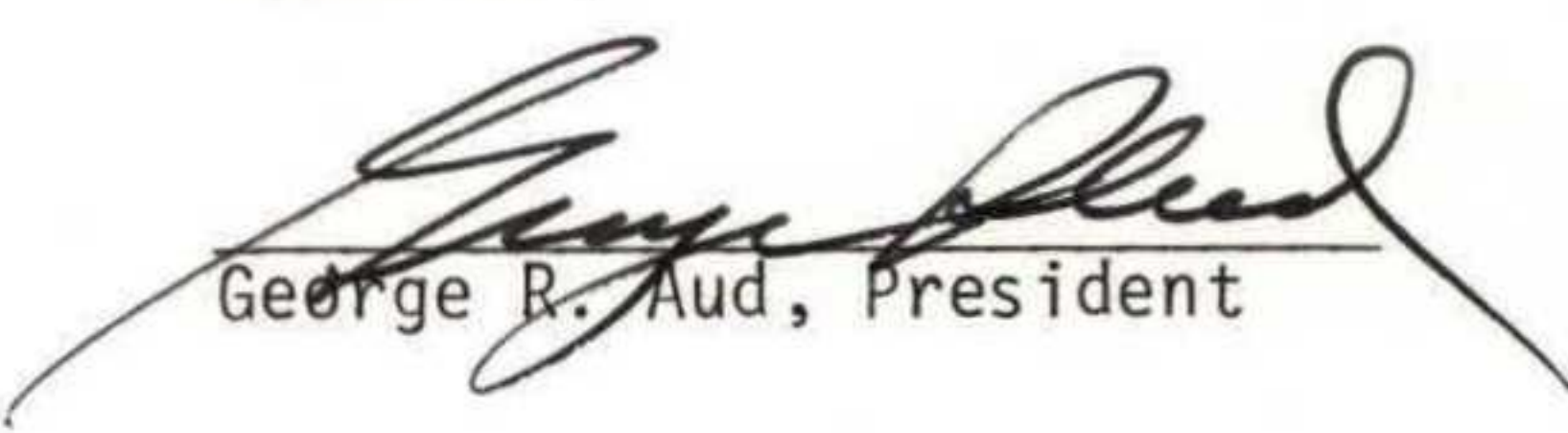
Mr. Lomax stated that Mr. Lombard had said the County would never be forced to put in a road. He said his experience in real estate leads him to conclude that nothing is stable, you can't talk in perpetuity. He also stated that nobody has pointed out that this is not going to be without some financial burden to the County. Mr. Aud said he understood that, and he didn't know, at this point, whether the County would be interested or not because of the erosion problem.

There being no further questions or discussion, the meeting adjourned at 2:00 p.m.

ADJOURNMENT

The meeting adjourned at 2:30 p.m.

Approved,

  
George R. Aud, President