BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, November 1, 1988

Present: Commissioner Robert T. Jarboe

Commissioner W. Edward Bailey Commissioner John G. Lancaster Commissioner Rodney Thompson

Edward V. Cox, County Administrator Judith A. Spalding, Recording Secretary

(Commissioner President Loffler was not present at the beginning of the meeting, and therefore, Commissioner Jarboe presided over the meeting.

The meeting was called to order at 9:05 a.m.

APPROVAL OF MINUTES

Commissioner Lancaster, moved, seconded by Commissioner Thompson, to approve the minutes of the Commissioners' meeting of Tuesday, October 25, 1988. Motion carried.

APPROVAL OF BILLS

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve payment of the bills as presented. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) CLEARINGHOUSE PROJECT NO. MD 881005-0793 MARYLAND LAND PRESERVATION AND RECREATION PLAN

The County Administrator presented the referenced clearinghouse project, which has been reviewed by Office of Planning and Zoning, and recommended that it be forwarded to the State with the comment that it is consistent with this agency's plans, programs, and objectives.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to accept this recommendation. Motion carried.

2) BUDGET AMENDMENTS

The County Administrator presented the following budget amendments recommended for approval by the Director of Finance with justifications as indicated:

No. 89-15 Finance

To provide funding to support energy tax program

No. 89-16 Sheriff's Department

To transfer funds to support cost of bunk beds for the work release area of the new detention center.

No. 89-17 Finance Office

To provide funds for St. Mary's County Building Authority Commission audit of financial reports for the detention center and state office building.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Vice-President Jarboe to sign the budget amendments as presented. Motion carried.

3) MARYLAND ASSOCIATION OF COUNTIES LEGISLATIVE COMMITTEE REPRESENTATIVES

Commissioner Lancaster moved, seconded by Commissioner Thompson to reappoint Commissioner Jarboe as St. Mary's County's representative on the MACo Legislative Committee and Commissioner Bailey as alternate. Motion carried.

4) JEFFERSON ISLAND SHORE EROSION DISTRICT

The County Administrator presented two copies of the Shore Erosion Control Project Agreement for the Jefferson Island Shore Erosion District.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to authorize Commissioner Vice-President Jarboe to sign the Agreements as presented. Motion carried.

5) STATEWIDE SPECIAL TRANSPORTATION ASSISTANCE PROGRAM GRANT AGREEMENT - SSTAP 89-21 - OFFICE ON AGING

The County Administrator presented the referenced SSTAP Grant Agreement for the operation of fixed route public transportation system for the elderly and handicapped in St. Mary's County in the amount of \$77,879 for the period July 1, 1988 through June 30, 1988.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to authorize Commissioner Vice-President Jarboe to sign the Grant Agreement as presented. Motion carried.

6) CORRESPONDENCE TO BOARD OF EDUCATION BUDGET AMENDMENT NO. 88-17

As a follow up to last week's discussion, the County Administrator presented correspondence addressed to the Board of Education setting forth the Commissioners' decisions regarding categorical changes, transportation, counselors, and mathematics teacher. In addition, Mr. Cox presented Budget Amendment No. 88-17 to provide funds for the elementary school counselors.

Commissioner Lancaster moved, seconded by Commissioner Thompson, to approve and sign the Budget Amendment as presented. Motion carried.

SOUTHERN MARYLAND REGIONAL LIBRARY ASSOCIATION ST. MARY'S COUNTY MEMORIAL LIBRARY - ACQUISITION OF VAN

Present: Katherine Hurrey, Director, SMRLA
Mary Wood, St. Mary's County Library
Mary Ann Chasen, Library Board of Trustees

At the request of the Commissioners the referenced individuals appeared before the Board to explain the Library Board's request for a supplemental budget appropriation. The Regional Library has offered to give the van, used by library staff for outreach services, to St. Mary's Library in return for reimbursement of the repair costs of \$2,871.48.

Ms. Hurrey explained that the outreach services, serving shut-ins, day care programs, nursing home and jail, are essential. The van required extensive repairs, which cost \$2,871.48, and will now provide 50,000 to 60,000 additional miles.

After discussion the Commissioners requested the County Administrator and Director of Finance to look at sources of funding including the library budget.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator

Commissioner Thompson moved, seconded by Commissioner Bailey, to meet in Executive Session in order to discuss a matter of personnel. Motion carried. The Session was held from 9:50 a.m. to 10:00 a.m.

PLANNING COMMISSION APPEAL FLEURY PROPERTY

Present Robin Guyther, Acting Director
Jim Weber, Chief of Permits and Inspections
Betsy Anthony, Recording Secretary
Elizabeth Holden, Recording Secretary.
Dr. George Fleury, Applicant
Phil Dorsey, Legal Representative

SUB # 88-1081: FLEURY PROPERTY

(Planning Commission Appeal)

Requesting a waiver of public road requirements to add a twelfth dwelling on a private right-of-way off Bull Road. The property is zoned R-1 and is shown on Tax Map 40, Block 21 as Parcel 61.

Robin Guyther advised that Dr. Fleury was appealing the Planning Commission's decision withholding the granting of a waiver which would allow Dr. Fleury to add another dwelling unit to his property. Mr. Guyther advised that staff had provided the Commissioners with a copy of the Zoning Permit, vicinity map, resolution adopting subdivision regulations and a copy of the first page of the subdivision regulations; Dr. Fleury had provided a colored version of the above-mentioned map.

Mr. Guyther informed the Commissioners of the issue, i.e., Dr. Fleury wants to add an additional house to his parcel, and at this time Dr. Fleury and his family have five houses on this property, plus there are additional lots which are also served by this private road. Subdivision regulations state that no more than eight (8) lots or dwellings can be served on a private road; there are now eleven (11) using this road. Staff would not issue a permit and, consequently, Dr. Fleury went before the Planning Commission to ask for a waiver of subdivision requirements, which they denied; therefore, he is now appealing to you.

Mr. Guyther pointed out that Dr. Fleury feels the regulations regarding the number of lots or dwellings on a private road are contained in the subdivision requirements and they do not apply to him since he is not subdividing. Mr. Joseph Densford gave an opinion to the Planning Commission that these regulations do apply to Dr. Fleury and though they may be located in the wrong place, the content is clear as to the County's intention. Mr. Densford stated that staff's opinion was correct, i.e., there could be no more than eight (8) lots or dwellings on this road. Mr. Guyther concluded his remarks by introducing Mr. Dorsey.

Mr. Phil Dorsey stated that he represented Dr. Fleury and his family and pointed out that they found some of opinions of Mr. Guyther and the Planning Commission to be controversial. Mr. Dorsey advised that he wanted to take this opportunity to ask Dr. Fleury to give a very brief history on this particular property. He further pointed out that when reference was made to the five (5) dwellings already on the property, they were all occupied by family members, and that the proposed two units were also for occupancy by family members.

Mr. Dorsey then commented on the colored map presented which showed exactly where this parcel is located. He then noted that the following page was the Zoning Ordinance, Article 4, Supplementary District Regulations, and quoted the following; "more than one principal dwelling may be located on a lot or tract in the following instances:", and in paragraph 2, it states, "a residence for relative of consanguinity providing a minimum lot area is allocated each dwelling."

Mr. Dorsey emphasized that this is 7.2 acre parcel which is still under the one acre, one lot rule. This provision allows an individual to place a certain number of dwellings on a lot, as long as that lot is not subdivided, and depending on the density requirements. This is not a subdivision, it has never been subdivided, but has been in Dr. Fleury's family for fifty or sixty years, and the exceptions to the regulations are hereby established since those would be legally existing lots at the time the subdivision ordinance was adopted.

Mr. Dorsey further stated that he knew that Dr. Fleury had spoken with Mr. Densford and that Mr. Densford had agreed that there was an issue. Mr. Dorsey then advised that Dr. Fleury would like to address the Commissioners and explain his dilemma.

Dr. Fleury detailed that his property had once been part of a farm belonging to Clyde Abell and was known as Ferney Hill Farm; it was completely surrounded by Society Hill Farm. In]915 a friend of Dr. Fleury's family purchased this parcel of land from Mr. Abell who, shortly thereafter, moved to California allowing the Fleury family use of this property from that time forward. In 1932, Dr. Fleury's aunt purchased this property and, subsequently, in]962, Dr. Fleury, together with his brother and sister purchased the property from his aunt's heirs. Since that time the Abell family has sold off additional parcels of land.

Dr. Fleury further noted that the only road to his property is a private road, indicated on the map in red. He then pointed out where the State road, Bull Road, ends and continues on as their road. He then indicated the nearest two County roads, citing that neither road was close enough to the property to be utilized. Dr. Fleury disclosed that his family and his brother's family are quite large and they are all anxious to have summer cottages. They have always been told they could build as many houses as they wished until the zoning ordinance was enacted, and only recently has this matter of the number of residences on private roads come to their attention.

Dr. Fleury advised that the five (5) houses mentioned are all occupied by family members, and that both parties on the adjoining lots have signed statements declaring that they have no objection to the additional buildings. Dr. Fleury summarized that he was not issued a building permit because of the stipulation contained in the subdivision regulations, and believes that since they are not subdividing nor a subdivision, they are not bound by them.

Dr. Fleury then informed the Commissioners that before his appeal to the Planning Commission, he had spoken with Mr. Densford, who said that he believed that Dr. Fleury did have a point, and also stated that there were no County regulations which apply to a situation such as this; the only regulation that limits the number of residences on a private road are the subdivision regulations. Dr. Fleury stated that Mr. Densford further stated that there is no regulation preventing his request, and rather than have the Planning Commission faced with this, he would recommend that the Planning Commission grant Dr. Fleury a waiver so that in the future the Planning Commission can deal with this problem on an individual basis. However, at the Planning Commission hearing, Mr. Densford stated that the regulation limiting the number of houses was only found in the subdivision ordinance, but that regardless of where it was found, the regulation does apply.

In conclusion, Dr. Fleury stated that he did not agree with this finding; the subdivision regulations clearly state that lots of record are exempted from these restrictions. He further stated that it was his impression at the Planning Commission hearing that the only reason his request was turned down was the fear of a flood of applications which could not be turned down.

In response to a question from Mr. Bailey, Dr. Fleury reiterated that the this property was not subdivided, and the family had no intention of ever selling any of the lots or dwellings.

Acting Chairman Robert Jarboe ascertained from questioning Dr. Fleury that all houses would be built on one parcel of land, which, consists of seven and one-half $(7\frac{1}{2})$ acres. Further discussion between Mr. Jarboe and Dr. Fleury clarified the location of roads illustrated on the colored map.

Mr. Thompson inquired as to the maintenance of the private road and Dr. Fleury informed him that the family maintained the private road.

Mr. Guyther then addressed the Commissioners noting that Dr. Fleury had stated staff's position accurately. Our main area of concern is that many people have been advised that they cannot subdivide because there are already eight houses on a road. The Planning Commission has turned a couple of people down, and so has the previous Board; the precedent that this would set is of even greater concern. The regulations say, "in no instances shall there be more than eight (8) dwellings or lots on a private road." And that was Joe Densford's point, perhaps it should be listed somewhere other than the subdivision regulations. The Planning Commission conducted a study to rewrite these regulations and the clear intent was to limit dwellings or lots on a private road to no more than eight (8).

Mr. Dorsey again raised the issue that the eight lot restriction is in the subdivision regulations and this property is not a subdivision. He further stated that he can think of no other cases where there has been a total family entity, and the family has been there for fifty to sixty years as permanent residents. Mr. Dorsey reiterated the fact that this is not a subdivision, this is a residence for relative consanguinity which was addressed in the 1972 Zoning Ordinance which states that there is an exception allowing more than one principal building on a lot of record, in accordance with the density requirements.

Mr. Guyther stated that he did not believe the Ordinance stated specifically that you could put more than eight (8) residences on a road.

Mr. Dorsey responded that the Ordinance stated more than one principal building may be located on a lot or tract in the following instances: a residence for a relative of consanguinity providing a minimum lot area is allocated each dwelling, and that is one unit per one acre.

Mr. Guyther brought to the attention of the Commissioners the fact that there were six (6) other lots on this road that are not in the family; this is not strictly a family situation.

Mr. Dorsey pointed out to the Commissioners that Dr. Fleury is not a real estate developer and does not intend to sell his property outside of his family, and perhaps permission could be granted conditioned on and substantiated by a letter documenting this fact.

Discussion then ensued between Acting Chairman Jarboe and Mr. Guyther regarding the number of houses allowable if all other requirements other than the subdivision regulations were met. Mr.Guyther explained that Dr. Fleury's property was in an R-1 Zoning District and with seven (7) acres he could have seven (7) dwellings at this time.

Acting Chairman Jarboe then inquired as to any future request to subdivide this property. Mr. Guyther stated that the Planning Commission would deny the request and it would then be appealed to the Commissioners to waive the subdivision regulations. Mr. Guyther then advised Acting Chairman Jarboe that this property could be subdivided if the private road was turned into a public road. If the road were paved and turned over to the County, the issue of the number of houses on a private road would not apply.

In response to a question from Mr. Thompson regarding farms in the area which may not meet this requirement, Mr. Guyther stated that since he has been here no one has been allowed to exceed the number of eight (8); however, there very well may be some situations which were pre-existing.

Mr. Guyther summarized that if the Commissioners grant this waiver, there will be many more requests, and that in the past others have overcome this restriction by utilizing another road, obtaining a right-of-way from someone else, or paving part of their road.

Mr. Guyther then suggested that the Commissioners discuss this situation with Mr. Densford in order to obtain his view and his opinion. Mr. Guyther expressed his belief in the accuracy of the statements attributed toM. Densford by Dr. Fleury, but felt that Mr. Densford had changed his mind after his initial statements to Dr. Fleury.

Acting Chairman Jarboe advised that the Commissioners would need to review this matter with Mr. Densford in depth. Accordingly, no decision was reached at this time.

There being no further discussion, the hearing was adjourned.

MARYLAND NATURAL GAS RESOLUTION NO. 88-30

Present: Monty Edwards, Maryland Natural Gas

Ajit Ratra,

Philip Dorsey, Attorney, "

Joseph Densford, Assistant County Attorney

As a follow up to the public hearing held Monday, October 17, 1988, the referenced individuals appeared before the Commissioners to obtain approval of the Resolution granting a franchise to MNG and authorization to install its gas transmission and distribution system within St. Mary's County.

Commissioner Lancaster moved, seconded by Commissioner Thompson, to approve and sign Resolution No. 88-30 granting a franchise to Maryland Natural Gas. Motion carried.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator

Sheriff Wayne Pettit

Barbara Dotson, Fiscal Specialist

Charles H. Wade, Jr., Director of Finance

Commissioner Bailey moved, seconded by Commissioner Thompson, to meet in Executive Session in order to discuss a matter of Personnel. The Session was held from 10:45 a.m. to 11:05 a.m.

SHERIFF'S DEPARTMENT

Present: Sheriff Wayne Pettit

Barbara Dotson

Sheriff Pettit indicated that an additional Sergeant rank position had been included in the FY '89 budget; however, he had been informed by the Director of Finance that the Commissioners had not approved this additional position. He stated that the position is needed in order to provide supervision to the newly established fifth work group to provide additional personnel to respond to calls during peak hours. Therefore, Sheriff Pettit requested the Board's approval for the additional sergeant rank position and subsequent positions created through promotions.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve the sergeant rank position as requested. Motion carried.

In addition Sheriff Pettit requested the Board's consideration to strengthen the manpower of the Sheriff's Department and approve three additional deputies. He indicated that this would allow his department to increase the drug enforcement division.

Mr. Wade advised that there may be a savings in food services for the new detention center in that there is a bid out for contract for food instead of the three cooks as contained in the budget.

After discussion Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve the three additional deputies as requested. Motion carried.

DEPARTMENT OF PUBLIC WORKS

Present: John Norris, Director

1) SOLID WASTE TIPPING FEE

As a result of the public hearing on the adoption of the Solid Waste Ordinance and related tipping fees, Mr. Norris indicated that there are several issues that need to be addressed.

Penalty section

In order to include civil penalties, legislative authority must be obtained from the Maryland General Assembly.

- ° Theft of services
- ° Collection and amount of fees from residents and individuals.

Commissioner Jarboe requested that Mr. Norris separate the issues and return in two weeks for the Commissioners to make a decision.

2) SOLID WASTE SUPERVISOR POSITION

As a follow up to previous discussion, Mr. Norris reiterated the need for a solid waste supervisor. New permits have been issued by the State for St. Andrews, and there are now additional duties and responsibilities that the County must adhere to. He stated that this item will be part of the package he will be transmitting to the Commissioners regarding the tipping fees.

3) ADDENDUM TO PUBLIC WORKS AGREEMENTS

Mr. Norris presented the following Addendums to Public Works Agreements for the Commissioners' consideration:

Addendum to Public Works Agreement between Paragon Builders, Inc. and St. Mary's County extending the deadline for completion of Poplar Wood Drive in Wildewood Subdivision, Eighth Election District, to June 1,1989.

Commissioner Lancaster moved, seconded by Commissioner Bailey, to approve and authorize Commissioner Loffler to sign the Addendum as presented. Motion carried.

Addendum to Public Works Agreement between Kenneth W. Sumner and St. Mary's County extending the deadline for completion of Whiskey Creek Road in Sotterly Manor (Eagle Crest) to December 1, 1988.

Commissioner Thompson moved, seconded by Commissioner Bailey, to approve and authorize Commissioner Loffler to sign the Addendum as presented. Motion carried.

4) CALLING LETTERS OF CREDIT

Mr. Norris presented the following correspondence calling Letters of Credit relative to the referenced projects:

The Greens at Hilton Run I (Grading Agreement) Correspondence to First National Bank of St. Mary's calling Letter of Credit in the amount of \$83,000 for The Greens at Hilton Run I. Mr. Norris indicated that a few clean-up items remain to be done and he expected to receive a cashier's check from the developer.

Commissioner Lancaster moved, seconded by Commissioner Bailey, to authorize Commissioner Loffler to sign the call letter and forward, if necessary. Motion carried.

Beauvue East Subdivision (Stormwater Management) Correspondence to First National Bank of St. Mary's calling Letter of Credit in the amount of \$17,000 for Beauvue East Subdivision.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the call letter and forward, if necessary. Motion carried.

PROCLAMATIONS

The Commissioners presented the following Proclamations:

Great American Smokeout Day

Present: Mike Dugan

Declaring Thursday, November 17, 1988 as The Great American Smokeout Day

National Hospice Month

Declaring the Month of November 1988 as National Hospice Month

Scouting for Food Week

Declaring the week of November 13-19, 1988 as Scouting for Food Week.

Youth Appreciation Week

Declaring the week of November 7 - 11, 1988 as Youth Appreciation Week

FY 1990 BUDGET

Present: Charles H. Wade, Jr., Director of Finance Representatives of all County Departments

Mr. Wade distributed and reviewed information pertaining to the development of the FY 1990 Budget, which includes revenue and expenditure trends, operating and capital budget development schedules, budget instruction changes, assumptions, and "must fund" items, and decision funds.

During discussion Mr. Wade highlighted the changes to the budget instructions and advised that operating budgets are due December 31, 1988. He stated that increased budget requests must be prioritized in order to assist the Commissioners in making decision.

The public hearings for the FY 1990 budget will be held April 19 and 20, 1989.

ZONING AMENDMENT RESOLUTION NO. Z88-05 GRAND CENTRAL VIDEO (ZONE #88-1147)

(Requesting a change in zoning from AR (Agricultural-Residential) to C-2 (Commercial) for property located on the west side of Rt. 5, north of, and adjacent to, the commercial area across from the Leonardtown school complex. The property contains .383 acres and is shown on Tax Map 41, Block 14 as Parcel 208.)

Commissioner Bailey moved, seconded by Commissioner Thompson, to approve the zoning application to C-2 (Commercial) as requested, and to sign Resolution No. Z88-05 as prepared by the Office of Planning and Zoning and reviewed by the Assistant County Attorney. Commissioner Lancaster voted against the motion stating he did not agree that the project would not have an adverse impact on public facilities. Motion carried three to one.

COUNTY COMMISSIONERS' TIME

Statues at Leonard Hall

In response to an inquiry from Commissioner Bailey regarding the disposition of the statues at Leonard Hall, the County Administrator advised that contrary to recent rumors, there are no plans to get rid of the statues at this time.

Henderson Park

The County Administrator advised that Recreation and Parks uses Henderson park, behind Great Mills High School, for various activities, and the principal feels that the school should have first use. It was agreed that the County Administrator and Director of Recreation and Parks would work together to develop a list of names for a joint committee to work out an equitable arrangement.

ST. MARY'S COUNTY SCHOOL CHOIR REPRESENTATIVES AT GOVERNOR'S MANSION

Commissioner Thompson reminded the Commissioners of the Governor's project of last year whereby representatives of school choirs from each County visited the Governor's mansion. He stated that he would take the responsibility of making arrangements for this year's program, to which the Commissioners agreed.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator

Commissioner Bailey moved, seconded by Commissioner Thompson, to meet in Executive Session in order to discuss consideration of appointments to Boards, Committees and Commissions. Motion carried. The Session was held from 2:00 p.m. to 3:15 p.m.

LEONARDTOWN COMMISSIONERS

Present: J. MaGuire Mattingly, President

Ed Long, Leonardtown Commissioner

Becky Proffitt, Steve Raley,

Tom Shea, Town Administrator Simon Ruderman, Circuit Rider

Joe Kuhna, Community Development Grants Administrator

David Jenny, Town Attorney

The referenced individuals appeared before the Commissioners to discuss items of mutual interest:

1) Leonardtown Annexation

Mr. Mattingly displayed and explained the proposed areas for annexation to Leonardtown. Currently there are two areas that are in the process of being annexed: Town Centre and Chestnut Hill Farms, north of Leonardtown on Rt. 5. Mr. Mattingly identified other areas for possible annexation in the future.

Impact Fees

Mr. Mattingly indicated Leonardtown's cooperation towards impact fees and stated that at a later date a determination would have to be made as to Leonardtown's and the County's portion of revenues from those fees. Leonardtown is currently participating with the County in costs for an impact fee study. In response to an inquiry from Commissioner Jarboe, Mr. Jenny indicated that Leonardtown may need enabling legislation to collect impact fees. Commissioner Loffler offered to provide the Town with a copy of the County's proposal for legislation.

3) County Roads within Town Limits

Mr. Mattingly indicated that Courthouse Drive, Tudor Place, and Greenbriar Road are county roads within Town limits and stated that the Town may want to have them deeded to Leonardtown. The Leonardtown Commissioners agreed to develop a proposal for submission to the County Commissioners.

4) Snow Removal

The County Administrator advised that the County has a Snow Removal Plan and suggested that there be a coordinated effort between the County and Town, particularly regarding priorities.

5) Tax Differential

Commissioner Loffler suggested that County and Town staff work together to develop proposals to update the tax differential once the impact fee study is completed.

6) Economic Outlook for St. Mary's County

Mr. Wade, Director of Finance, presented the economic outlook for St. Mary's County which included revenue and expenditure trends.

7) St. Mary's County Jail Annex

Mr. Shea, Town Administrator advised that the Jail Annex lease on the second floor of the library will be before the Leonardtown Board of Appeals on November 22 at 7:30 p.m.

RECESS/RECONVENE

The meeting recessed at 4:50 p.m. and reconvened at 7:00 p.m.

PUBLIC FORUM

The Commissioners opened the meeting for questions and comments from the audience:

Viki Volk - Funding for Counselors Surplus in Budget

Floyd Williams - County Department Heads Comprehensive Plan

Minnie Russell - Solid Waste Ordinance Waste disposal at Valley Lee Transfer Station public wharf near her property

Boy Scouts from - County Budget Troop 420 Cost of Jail Detention Center over Library

ADJOURNMENT

The meeting adjourned at 8:10 p.m.

APPROVED,

Carl M. Loffler, dr./ President