

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, March 28, 1989

Present: Commissioner Carl M. Loffler, Jr., President
Commissioner W. Edward Bailey
Commissioner Robert T. Jarboe
Commissioner John G. Lancaster
Commissioner Rodney Thompson
Edward V. Cox, County Administrator
Judith A. Spalding, Recording Secretary

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, March 21, 1989 and Thursday, March 23, 1989. Motion carried.

APPROVAL OF BILLS

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

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) PROPOSED BUDGET MESSAGE

The County Administrator presented the proposed Budget Message, which will be attached to and made a part of the FY '90 Recommended Budget. The Commissioners gave their concurrence to include the Budget Message as presented.

2) DRAFT AGENDA FOR APRIL 4 MEETING

The County Administrator presented a draft agenda for the Commissioners April 4 meeting and stated flexibility was needed in formulating the agenda each week.

3) LETTER OF INTENT TO PARTICIPATE
HOMELESS SERVICES PROGRAM

The County Administrator presented a Letter of Intent to Participate which serves to confirm that St. Mary's County Government is interested in serving as the contracting agent to receive funds from the Homeless Services Program. The Department of Social Services will be the administering agency for the Program.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the Letter of Intent as presented. Motion carried.

4) APPROVAL OF BY-LAWS
ETHICS COMMISSION

The County Administrator presented correspondence addressed to the Ethics Commission indicating that the by-laws for the Commission are in compliance with Resolution No. 88-03.

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve the By-Laws for the Ethics Commission and sign and forward the letter as presented. Motion carried.

5) LETTER OF APPRECIATION

The Commissioners agreed to sign and forward correspondence addressed to Mr. Jay Hanks expressing appreciation for his service on the Nursing Center Board which has ended due to his resignation.

The Commissioners agreed to sign and forward the letter as presented.

6) APPOINTMENTS
BOARDS, COMMITTEES, AND COMMISSIONS

Economic Development Commission

Commissioner Lancaster moved, seconded by Commissioner Bailey, and motion carried, to make the following appointments with terms as indicated:

Kennedy Abell, Jr.	6/30/90
Thomas Bell	6/30/90
Walter Blair	6/30/90
F. Elliot Burch, Jr.	6/30/90
William Curtis	6/30/90
Arthur G. Esch	6/30/90
Keith Fairfax	6/30/91
Robert Gabrelcik	6/30/91
Alfred Gough, Jr.	6/30/91
Joseph M. Gough, Jr.	6/30/91
George Haliscak	6/30/91
Harold Herndon	6/30/91
James A. Kenney III	6/30/92
Dr. William Moyer	6/30/92
L. G. Raley	6/30/92
Ray Runco	6/30/92
E. Leslie Shaw	6/30/92
Edmund W. Wettengel	6/30/92

Wicomico-Zekiah Scenic River Local Advisory Board

Commissioner Bailey moved, seconded by Commissioner Thompson, to appoint Jon R. Grimm, Director, Office of Planning and Zoning, as the local governing body representative to the Wicomico-Zekiah Scenic River Local Advisory Board. Motion carried.

7) REQUEST FOR EXEMPTION OF IMPACT FEE
SELF HELP HOUSING - TRI-COUNTY COMMUNITY ACTION COMMITTEE

The County Administrator advised that he, Mr. Mitchell, Mr. Wade and Mr. Grimm have been working on a recommending concerning the impact fee and projects such as the Self-Help Housing through Tri-County Community Action. He stated that they will not be recommending waivers of the fee and would be submitting a proposal in the near future for the Commissioners' consideration.

8) BOARD OF ELECTION SUPERVISORS
STORAGE OF VOTING MACHINES

The County Administrator presented correspondence addressed to the Attorney for the Board of Election Supervisors reconfirming that the Commissioners are committed to locating a better space for the voting machines. Budget deliberations are underway to determine funding for the improved space.

The Commissioners agreed to sign and forward the letter as presented.

ST. MARY'S COUNTY LICENSED AUTOMOBILE DEALERS ASSOCIATION

Present: Thomas Bell, Bell Motor Company
Frank Bell, "
Cuthbert Fenwick, Fenwick Ford
Joe McKay, McKay's Implement and Chrysler
Mr. Mitchell, Jeep-Eagle
Bill Ritter, Ritter Chevrolet

The referenced individuals appeared before the Commissioners to request the elimination of the Inventory Tax immediately. Mr. Bell stated that the tax places the automobile dealers in an uncompetitive situation. Eliminating the tax would make funds available to stock more parts and to purchase equipment to keep automobiles at top performance. More money would also be available to support various charitable requests.

Mr. Loffler explained that at last week's meeting staff had submitted a proposal to eliminate the tax over a five-year period of time. Because of the loss of revenue from this tax, the County needs time to either look at reducing expenses or fund a source of revenue.

In closing Mr. Bell indicated that the Association had two recommendations:

- 1) To have a three-year phase out with a 15% reduction instead of the proposed 20% over a five-year period.
- 2) To defer payment of the tax from October 1 to January 1.

During discussion Commissioner Bailey indicated agreement with phasing out the tax before the five-year period.

In conclusion the Commissioners thanked the Automobile Dealers Association for their concerns and agreed to take the requests under advisement.

(COMMISSIONER THOMPSON LEFT THE MEETING - 10:00 a.m.)

COMMUNITY DEVELOPMENT BLOCK GRANT
TINTOP HILL ROAD SEWER LINE PROJECT (ROUTE 245)

Present: Steven King, Metropolitan Commission
Joseph Mitchell, Director, DECD
Nancy Hutson, Grants Administrative Officer

The referenced individuals appeared before the Commissioners to request the Board's approval to advance funds in the amount of \$70,800 from the 1986 CDBG grant program for design of the sewer line construction for the referenced project. Mr. King stated that the Metropolitan Commission anticipates receiving a grant for the project from the Environmental Protection Agency, which is predicated on the completion of the design. Bids have been received for the project and the Metropolitan Commission accepted the proposal from Beaven Company for the design in the amount of \$70,800. The project is scheduled to begin by mid-summer or August.

After discussion Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve the advance of funds from the CDBG program as requested. Motion carried.

IMPACT FEES

Commissioner Jarboe moved, seconded by Commissioner Bailey, to direct staff to advertise for a public hearing on impact fees. Commissioner Loffler voted against the motion. Motion carried. three to one.

During discussion Commissioner Loffler inquired as to the dollar figure to take to public hearing.

Commissioner Jarboe suggested going to public hearing with the figures suggested by the consultant, Peat Marwick. \$9400 represents 100% recovery, and once other revenues are taken into consideration as well as the amounts needed for the various categories (roads, school construction, parks, etc.), the Commissioners will have to vote on a more realistic figure.

Mr. Densford stated that it was not necessary to have an exact dollar amount, but there should be a fair summary in the legal notice which indicates that the County is going to establish an economic impact fee based on the consultant's study.

Commissioner Loffler requested a clearer definition of what the Commissioners were going to present at the hearing and what the Commissioners will be voting on.

OFFICE OF PLANNING & ZONING
PUBLIC HEARINGS

Present: Jon R. Grimm, Director
Anita M. Meridith, Recording Secretary

FSUB # 88-0165: LONG'S SUBDIVISION (David Long)

Requesting approval for a three acre lot to be served by private rights-of-way which have one access to a public road and two access points to another private right-of-way. The rights-of-way serve 13 lots at this time. The property is located off Benswood Road north of Route 4. It is zoned R-1 and is shown on Tax Map 41, Block 6 as Part of Parcel 286.

Mr. Long provided a large plat of the property and offered the history of his application to date. He alleged that he first discussed the eight lot subdivision proposal in 1979 with the former Director, who had given him preliminary approval. The three rights-of-way were identified (shown in red on the site plan). At that time, the project consisted of eleven (11) lots. On April 25, 1988, the Planning Commission granted approval for Lot 4, and cautioned the applicant that should he wish to develop the remaining lots, he would be required to build the road to County standards. Mr. Long emphasized that the latter was totally impossible, as the cost to accomplish the required system would run in excess of \$150,000.

Mr. Long appeared before the Commissioners this date, seeking relief of the road standards, urging, "I have 60 acres, that I can't do nothing with." Mr. Long urged that his health was failing and that he had relied on the fact that he would be able to use this property to finance his retirement.

Mr. Long urged that in order to bring the road up to County standards, he would have to forfeit two to three lots to engineering.

Mr. Grimm, Director of the Department of Planning and Zoning, advised that he had first met and reviewed this case with the applicant in January of 1989 and the points of contention were indeed the number of lots served by the right-of-way, other than public roads. He urged that there were a number of properties, separate from the Long property, which abutted on rights-of-way which would then serve this property. Having reviewed the case record at great length, Mr. Grimm advised that he agreed with the previous determination based on the road building requirements as they related to the number of lots served by the rights-of-way. Mr. Grimm emphasized that the issue was not that the applicant was being denied further subdivision/additional lots, but rather, conformance with the pertinent road standards in order that the applicant might develop those additional lots.

Mr. Grimm remarked that the conflicting issue was whether or not the right-of-way should count the properties, which Mr. Long had indicated were not referenced in the deed(s) as having any access. Mr. Grimm noted that he had referred this matter to the County Attorney for review and interpretation. Mr. Joseph R. Densford, Assistant County Attorney, present during this portion of the Commissioners' proceedings, referenced a recent court decision which concluded that even though a lot might have alternate access, while being off a public road, even though the deed may not specifically address the right to use that private right-of-way, if it was contained on the plat, you would be entitled to use that right-of-way.

Following further brief discussion, the Chair thanked Mr. Long for making his presentation and noted that the matter would be taken under advisement with the Board rendering a decision within the next several weeks.

PUBLIC HEARING

11:00 A.M.

ZONE # 1108: HART AND LYTLE PROPERTY

Requesting approval of the access plan (described in Condition # 2 of the December 12, 1988 Planning Commission minutes) in order to finalize the recommendation for rezoning to C-2, Commercial, made at that meeting. The property is shown on Tax Map 34, Block 16, as Parcels 51 and 52.

Present: James A. Kenney, III, Attorney for the Applicant
Billy Higgs, McCrone, Inc.
Glenda Lytle, Applicant
Roy Hart, Applicant

Mr. Jon R. Grimm, Director of the Department of Planning and Zoning, read the public hearing notice aloud into the record, as published in The Enterprise Newspaper, a publication of general county-wide circulation, in the March 8, 1989 and March 15, 1989 issues, respectively, thus providing legal notification of the aforereferenced rezoning application. The file has been, and remains available for review in the Department of Planning and Zoning. At this point, legal representative, Mr. James A. Kenney, III, offered into evidence, marked Applicant's Exhibit No 1, the postal receipts from the certified letters of notification sent to all contiguous property owners. Counsel affirmed that the property had been legally posted with the placard provided by P & Z.

Mr. Kenney introduced as his first expert witness, Mr. Barry Christy of McCrone, Inc. Mr. Christy offered his educational background and employment credentials, advising that he was a planner and landscape architect, registered in both Maryland and Virginia, practicing in those fields for twenty years in the D. C./Baltimore areas.

The particulars of the application were cited, location of the site and contiguous and surrounding landmarks/properties identified. This 7.9 acre site is located on the northwest corner of Routes 4 and 235 and enjoys 100 ft. of frontage on Rte. 235 and also on Routes 4, west of Burke's Mobile Home Park, and access to Route 235, north of the Bay Center Shopping Center. The neighborhood was identified as 1.5 miles along Route 235. A large plat of the subject parcel was provided for the Commissioner's review with other contiguous and adjacent properties identified as parcels which had been rezoned subsequent to the County's comprehensive rezoning in 1974. This site is abutted by the Wildewood PUD.

Discussion ensued and Mr. Kenney emphasized that while there were no actual uses proposed for the site, the applicants didn't want to be precluded from any commercial potential and were seeking the full allowance for the C-2 designation.

Billy Higgs spoke to the issue of access and emphasized that access had been retained to the adjacent mobile home park. Mr. Higgs commented that it was his understanding that a mobile home park would be classified commercial under the new Comprehensive Land Use Plan and under that new designation, the applicants had no problem with providing an access in either case, thus providing them with use of that access, as opposed to creating additional entrances off Route 235/Rte. 4 and St. Andrews Church Road. Mr. Grimm noted that the staff recommendation for the existing mobile home park classification would be for high density residential uses, as opposed to commercial. Mr. Higgs reiterated, that irregardless of the degree of development, the applicant was still amenable to providing access.

Mr. Higgs spoke briefly to the topography of the site and identified a natural ponding area in the lower end of the site, which would be used for stormwater management for this site and adjacent properties. The site is currently totally wooded and thus natural wooded buffers would be retained around the perimeters.

Mr. Grimm advised that the five conditions incorporated in the staff recommendation, and adopted by the Planning Commission in their conditioned approval to the Commissioners for this property, were incorporated as provided insurance that the interest of the County would be protected in terms of development potential.

Mr. Kenney advised that it was his understanding that this property was slated for commercial zoning, under the new Comprehensive rezoning, however, his client had opted to move forward via the rezoning process and not wait until the future adoption of the zoning maps. Later in the course of the hearing, Commissioner Jarboe inquired how this rezoning application might possibly impact the on-going Comprehensive Plan. Mr. Grimm acknowledged that this was indeed an issue and was partially the reason why the application had be delayed. He emphasized, again, that he had not felt that it was appropriate to cause total delay in the processing of the application, as there was not a moratorium. Also, he urged that the imposition by the Planning Commission of the five conditions, were implemented in support and in conjunction with staff's concerns that this was proceeding ahead of the Comprehensive rezoning and that the severity of those conditions was thus reflected.

The Chair inquired whether anyone present wished to speak either in favor or opposition to this rezoning application.

Mr. Frank J. Gerred, S.M.E.C.O. representative, stated that S.M.E.C.O. had no objections to the rezoning request, however, he urged the applicant to give some thought to keeping the buffering adjacent to the substation.

Mr. Grimm advised that under the commercial designation, previously discussed, the C-1 and C-2 designations would be combined into one general commercial planning classification which would provide a broader spectrum for commercial uses.

The applicant, Mr. Roy Hart noted that should this rezoning application be successful, the property would most likely be developed as an office complex. He assured the Board that the project would be "done right and will not be a hindrance to the community."

The Chair commented that the matter of combining the C-1 and C-2 commercial classifications was an issue that had not been debated by the Board of Commissioners at this point. He urged that while he did not want to open debate on the issue, at this particular point, he did want the record to reflect that he had grave concerns with allowing all C-2 uses in some instances, e.g. all night operations, etc. and he felt that those more intense uses would have to be addressed and safeguarded in some manner via implementation of the new Zoning Ordinance. The Chair inquired whether the applicants would be amenable to a conditional/restricted approval. Mr. Hart assured that "some of the things that are in C-2 will not go in here." Mr. Kenney stated that should the Board be inclined to grant such a restricted approval, that he would ask that the Board provide the applicant with a list of those restricted uses, prior to an official rendering of their decision. Counsel argued that while his clients were "willing to be reasonable" the Board should not expect them to agree to "standards that are unknown."

There being no further comment, the Chair ordered the hearing closed and added that the matter would be taken under deliberation, and a decision would be forthcoming within the next several weeks.

Hearing closed.

EMPLOYEES' ASSOCIATION
SALARY STUDY

Present: Joanne Yates, President, Employees' Association
Jeannie Copsey, Vice-President
Judy Cusic, Corresponding Secretary
Delores Murphy, Recording Secretary

The referenced representatives of the Employees' Association appeared before the Commissioners to submit views and questions from employees regarding the Salary Survey conducted by Herget and Company. Ms. Yates stated that the main concern of some of the employees was the proposed change of working hours from 35½ to 40 hours a week.

The Commissioners thanked the Association representatives for presenting the concerns and agreed to address them at a later date.

A copy of the concerns are on file in the Commissioners' Office.

PROCLAMATIONS

National Auctioneers' Week

Present: Billy Fitzgerald

The Commissioners presented the referenced Proclamation designating the week of April 2 - 8, 1989 as National Auctioneers' Week.

Week of the Young Child

The Commissioners presented the referenced Proclamation designating the week of April 2 - 8, 1989 as the Week of the Young Child.

SIGNING OF FISCAL YEAR 1990 BUDGET

Present: Marty Jones, Budget Analyst, Finance Office

Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve and sign the FY '90 Recommended Budget. Commissioners Loffler, Thompson, and Lancaster voted in favor, and Commissioners Bailey and Jarboe voted against. Motion carried three to two.

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director

EASEMENT AGREEMENT - RAILROAD RIGHT-OF-WAY
PETER A. GRIFFIN

Mr. Ichniowski presented an Easement Agreement by and between the Board of County Commissioners of St. Mary's County and the Southern Maryland Electric Cooperative and Peter A. Griffin and Mary Martha Griffin granting access across the railroad right-of-way which borders on property owned by the Griffins in the Sixth Election District.

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

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator

Commissioner Lancaster moved, seconded by Commissioner Thompson, and motion carried, to meet in Executive Session as follows:

Personnel

Held from 12:05 p.m. to 12:15 p.m.

Property Disposition

Also Present: Jon Grimm, Director, OPZ
Joseph Densford, Assistant County Attorney

Held from 12:15 p.m. to 12:50 p.m.

7:00 P.M.

METROPOLITAN POLICE BOYS AND GIRLS CAMP
CAMP BROWN - SCOTLAND, MARYLAND

Present: Fred Thomas, Executive Vice-President
Solvin Gordon, 1st Vice-President
Lt. R. Hamilton, Police Director
Ernest Banks
Interested Citizens

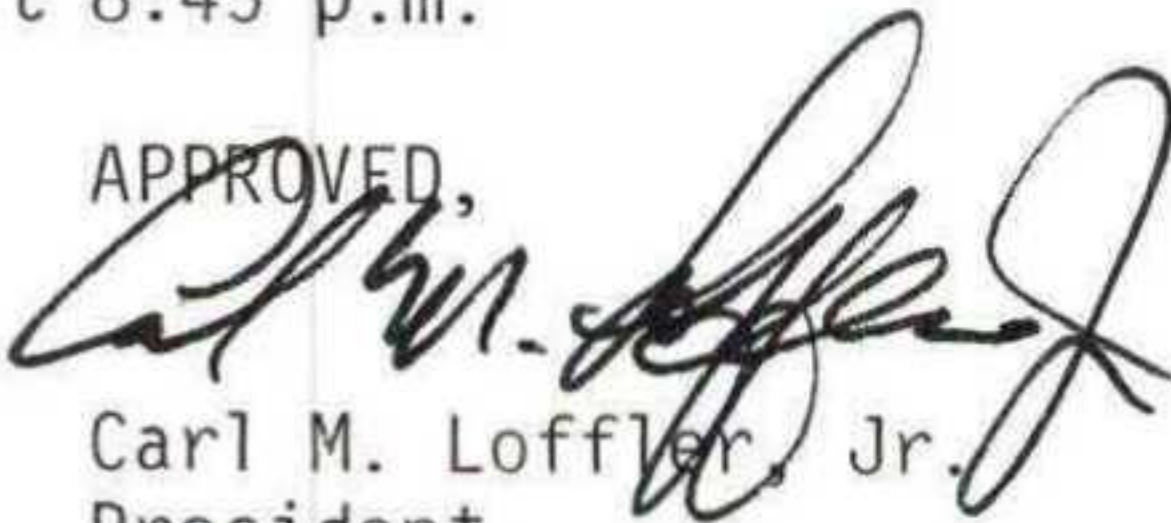
The referenced representatives of the Metropolitan Police Boys and Girls Camp appeared before the Commissioners to present information in response to concerns expressed by citizens in the area of Camp Brown.

A copy of the responses is on file in the Commissioners' Office.

ADJOURNMENT

The meeting adjourned at 8:45 p.m.

APPROVED,


Carl M. Loffler, Jr.
President