

BOARD OF COUNTY COMMISSIONERS' MEETINGTuesday, August 22, 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 Loffler requested the deletion of the line "Total Cost of Recommended Changes \$669,360 under the St. Mary's Public Schools - Dynard Elementary School portion of the minutes of August 15. Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve the minutes of the Commissioners' meeting of Tuesday, August 15, 1989 as corrected with the addition of a line that states a copy of the Public School's handout is on file in the Commissioners' Office. Motion carried.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve the Office of Planning and Zoning portion of the Commissioners' August 15 meeting and the Critical Area public hearing minutes of August 15, 1989. Motion carried.

APPROVAL OF BILLS

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

INTRODUCTION OF DIRECTOR OF MARCEY HOUSE

Present: Larry C. Harvey, Director

The County Administrator introduced Larry Harvey as the new director of the Marcey Halfway House. Mr. Harvey began his position on Monday, August 21.

(Commissioner Thompson entered meeting - 9:25 a.m.)

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

- 1) ZONING AMENDMENT RESOLUTION NO. Z89-03  
SAMUEL B. BURCH JR. - ZONE #88-2003

(Application to rezone approximately 36.6 acres of land on the south side of Golden Beach Road, adjacent to the rear of Charlotte Hall Center from AR, Agriculture-Residential to C-2, Commercial, Fifth Election District, Tax Map 1, Block 22, Part of Parcel 42.

Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve and sign Zoning Amendment Resolution No. Z89-03 approving the zoning application as requested. Motion carried.

2) CLEARINGHOUSE PROJECT #MD890717-0545  
FISCAL YEAR 1990 FEDERAL AID PROGRAM

The County Administrator presented the referenced clearinghouse project and recommended that it be forwarded to the State with the comment that it is consistent with this agency's plans, programs, and objectives.

The Commissioners gave their concurrence.

3) APPOINTMENTS  
BOARDS, COMMITTEES, COMMISSIONS

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

<u>Economic Development Commission</u>	<u>Term to Expire</u>
John L. Madel, Jr.	6/30/93
<u>Recreation and Parks</u>	
Lynne M. Redmond	12/31/92-96
<u>Maryland Shipping Point Advisory</u>	
William E. Simpson	No Term

4) NURSING CENTER  
ANIMAL WARDEN VEHICLE

The County Administrator presented correspondence dated July 21, 1989 from the Nursing Center requesting the County's animal warden vehicle when it is taken out of service. The vehicle will be used for the Center's maintenance department.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve this request. Motion carried.

5) OFFICE ON AGING  
TRANSPORTATION PROGRAMS

The County Administrator presented the following Grant Agreements for the Office on Aging transportation programs for consideration and approval:

Public Transportation Operating Assistance Grant Agreement  
MD 18-4004/4005 - Operation of Fixed route and Demand  
Response Service in St. Mary's County

Estimated Project Cost - \$71,113  
Federal Share - \$ 7,657  
State Share - \$32,645

Statewide Special Transportation Assistance Program  
SSTAP-90-2-1 - Operation of a Demand Response and Fixed  
Route Service throughout the County.

Estimated Project Cost - \$77,879  
State Share - 58,409  
Local Share - 19,470

Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Grant Agreements as presented. Motion carried.

6) REVISED PLANNING COMMISSION DEADLINE AND SCHEDULING

The County Administrator presented a memorandum dated July 14, 1989 from the Office of Planning and Zoning requesting the Commissioners' approval of the Planning Commission deadlines and scheduling. The revised schedule, approved by the Planning Commission on July 10 will allow a longer period of time for processing of items before the Commission giving the staff time for adequate review.

The Commissioners gave their concurrence.

CRITICAL AREA PROGRAM GRANT

Present: Jon Grimm, Director  
Vivian Marsh, Deputy Director  
Peggy Childs, Recording Secretary.

Mr. Grimm presented a letter for Commissioner Loffler's signature to the Critical Area Commission requesting \$45,500 to fund  $\frac{1}{2}$  salary for a new Planner, the other  $\frac{1}{2}$  of which would be funded by CZM funds; and  $\frac{1}{2}$  of an inspector's position, the other  $\frac{1}{2}$  of which will be funded by stormwater management funds.

Mr. Grimm said we had anticipated receiving \$80,000 from the CAC in FY 90, and have cut back on staff time and expenditures to implement the program rather than search for additional funding. Also contained in this proposal is a request to utilize additional facilities for computerized mapping (MIPS - Map Imaging and Processing System) to track applications and permits within the critical area, which is more than 1/3 complete.

Mr. Grimm said he believes there is a commitment by the State to continue funding program implementation, but he can't guarantee what it will be. He said there was some lobbying this year to keep funding at the level requested by State agencies, but the General Assembly reduced it, although some funds were reinstated by the Governor.

Commissioner Thompson moved to authorize President Loffler to sign the letter requesting CAC funding. The motion was seconded by Commissioner Jarboe and unanimously passed.

Commissioner Jarboe pointed out that St. Mary's is a county with a large amount of land in the critical area, and we may want to address funding in our Legislative Package, because we have to have enforcement of the program.

COASTAL ZONE MANAGEMENT CONTRACT

Mr. Grimm presented three copies of the annual CZM Contract for the President's signature. This is a continuation of a coastal management program which is also being used to implement critical area activities. Specifically, this program is for evaluation of projects within the 100 year flood plain or within the 1,000 ft. critical area, or within other areas with particular physical characteristics which make the land important for coastal and natural resource protection. The \$4,000 County match is in the budget. The only change is that the State liaison has asked that, rather than match the grant funds with in-kind personnel, we purchase the equipment with County funds. That way it will be County owned, with no strings attached.

Commissioner Bailey moved and Commissioner Lancaster moved to authorize signature. Motion carried.

RELIABLE AUTO PARTS

Present: Ben Burroughs, Jr.

Mr. Grimm responded to the Commissioners' request regarding status of compliance of Reliable Auto Parts with site plan approval. Mr. Grimm said the first approval was in May of 1979 for a zoning amendment, the single condition being that there be only one access onto new Route 5. This has been complied with.

Conditions of the August 1983 site plan approval were:

- (1) Screening by a 6 ft. solid fence around all sides but the south side.
- (2) Planting of 7'-8' evergreens per the site plan.
- (3) Skirting around the mobile home which then served as the office.
- (4) No vehicles stacked higher than 2 to limit visibility of the site.
- (5) SHA approval of entrance.

Mr. Grimm stated when the site plan came before the Commissioners also in August 1983 the only condition reflected in the minutes is that there be proper screening and that OPZ monitor the property accordingly.

He said there is a 6 ft. fence surrounding the property on all sides but the south side, and there was an amendment to the site plan by the Planning Commission reducing the size of the evergreens to 3'-4' plantings because there was a statement from a forestry agent that they had a better chance for survival.

Mr. Grimm said OPZ inspectors have found that, periodically, there were more than 2 cars stacked, but that did not occur for any length in time and they were removed. Most recent photographs show mostly single cars. SHA did approve the entrance, and Mr. Grimm said, because of the lay of the property, it would be difficult to screen it entirely.

The next activity was in March 1988 when site plan approval was requested for additional office and storage space. The site plan was approved by the Commissioners in April 1988 and conditions relate to fencing along the southwest corner to block the view from Old Route 5; that there would only be sales of vehicles reconditioned on the site; that a SWM basin would be excavated and fenced to prevent storage on that area; and that the Health Dept. would approve a protection measure for the drain fields.

Mr. Grimm said the fencing is ambiguous as to whether it is high enough, it is the same size as the other fence, but does not block the view from Old Route 5. Excavation of SWM basin is not documented in OPZ file, but the property owner says he has done so, the basin is partially fenced, and DPW has allowed a SWM exemption. The property owner has complied with his agreement with the Health Department relating to the drain fields which were inspected by OPZ last week.

Mr. Grimm stated he had not looked into setback or curbing compliance. He said there has been lengthy activity relating to violations imposed for lack of compliance in the past, but the record indicates those violations were satisfactorily met. However, he said, there is a note in the file that the parking area does not have wheel stops.

The Commissioners reviewed the site plans for the property, the most recent plan of April 26, 1989 showing a different layout than the 1983 plan, with the parking moved much closer to the highway. Commissioner Loffler commented this may be what has caused the problem Mr. Grimm stated the adjacent property has also been recently cleared which has opened up the view of the site.

Mr. Grimm said the issue and the ambiguity of the screening of the southwest corner is the question in his mind outstanding from the 1988 approval. From the site plan it appears that the requirements have largely been met, if not wholly. Commissioner Loffler asked Mr. Grimm to put that in writing, with a copy of the minutes, to Mr. Floyd Williams, who had brought it up at the public hearing, and perhaps we could include a copy of the most recent site plan. Mr. Grimm added he would review the setbacks prior to putting anything in writing.

Mr. Ben Burroughs asked to speak and commented that he had financed the site and did the work and holds the mortgage on the property, and he is very much aware of what was done. He presented pictures of the property and said everything that was required was done and done elaborately; they had the stormwater management pond excavated, re-riprapped, reestablished the fence around it and had it inspected; they put in an artesian well and filled in the old one. Because the septic line was close, Tom Russell asked that a new septic system in, and another one out in the yard; he asked that no cars be put on the line. Mr. Burroughs said all of this was done, and showed a picture of the sewer line as of yesterday, with no cars on it. Mr. Russell asked them to mark the septic tank and they did that. He said the silt is not coming out of the pond and presented pictures showing no silt coming over the grass or the riprap.

Mr. Burroughs said they got an Occupancy Permit from Mr. Weber and when the site was leased to Jim Gorman he had obtained an Occupancy Permit, and they feel that they have complied with everything.

Commissioner Jarboe stated that when the adjacent property was cleared that opened up the site, and Mr. Burroughs replied that Mr. Weber had taken him to task about that, that he had responded immediately and had gotten an attorney and talked to Mr. Weber about it and hopefully has taken care of it.

Commissioner Bailey stated there is no way you could ever fence it so you can't see the cars. Mr. Grimm will make sure the other site plan requirements are met and will respond to Mr. Williams.

#### REZONING DISCUSSION/DECISION

##### ZONE #89-0103 - LAND OF MARY McKAY

Requesting rezoning of three parcels of property from R-1, Rural-Residential, to C-2, Commercial. The property contains approximately 3 acres and is located along the northeast side of MD Route 235 at its intersection with Gunston Drive, and is shown on Tax Map 35C, Block 17, as Parcels 19, 20 & 27.

Present: Vivian Marsh, Deputy Director, OPZ

Mr. Marsh presented the plat of the property and stated there were some questions at the public hearing that he would like to address. The Planning Commission made 4 recommendations for rezoning:

- (1) Only one point of ingress/egress would be allowed on Route 235, and that should be coordinated with existing properties.

- (2) No access to Chestnut Street, the residential street. Mr. Marsh said the applicant questioned that condition, but review of the tapes prove it is correct; however, the applicant has pointed out there is a ravine there which may make it impractical to connect the buildable lot with anything on the residential side. Mr. Marsh suggested the Commission might want to leave that condition out of any approval and leave it to the discretion of the Planning Commission at the site plan stage.
- (3) Require hookup to water and sewer at applicant's expense.
- (4) Applicant to conform to the new zoning regulations currently under review.
- (5) Require a planted buffer - applicant indicates there are some existing trees which can be left, but there must be a buffer.

The ravine and buffering of the residential property was the crux of the Commissioners' discussion. Commissioner Loffler stated it is a residential piece of property adjoining a residential area with access to a residential road, which should be restricted. He said he thinks the ravine is a good buffer, and he would like to not see us moving into the Town Creek Subdivision with commercial zoning.

Commissioner Bailey said he thinks the road issue should be decided at the site plan stage, because there is a lot more information then to make that judgment, and said he is in favor of approving it with entrances to be decided at site plan review. Commissioner Jarboe agreed. Commissioner Loffler said he would like to see the Commissioners consider this as 4 pieces of property.

Commissioner Jarboe said it is his understanding that, under the new regulations, the property would be designated commercial, but the residential use would be allowed to continue.

Commissioner Bailey moved to approve the rezoning with driveway restrictions at the site plan stage. The motion was seconded by Commissioner Jarboe. Discussion followed. Commissioner Loffler stated he is opposed to rezoning under those terms because it does include the residential area, but said he would support rezoning of the parcels attached to Route 235: Joan S. Hayden, J. Norman McKay, and the M. H. McKay property; but without question the E. L. McKay property, even though owned by the same family, is part of the residential community of Town Creek and would carry commercial into that community.

Commissioner Jarboe stated it would appear to him that the buffer should be addressed at site plan stage. Commissioner Thompson said he could see it as both advantageous and a disadvantage.

Commissioner Bailey amended his original motion to include that a proper buffer will be maintained between this property and the adjoining residential properties. The motion passed by a vote of 4-1, with Commissioner Loffler voting against.

#### BUILDING CODE DISCUSSION

Mr. Grimm stated he had forwarded to the Commissioners a summary of comments made at the public hearing and suggested a path to follow, and would like the Commissioners' comments about the report or the public hearing and how to proceed.

Commissioner Loffler said he would like to see us proceed with post haste to adopt a code, but the adoption of a code would require action be taken to customize it to the County regarding inspection and enforcement, and that was what was missing from the public hearing, and he would like to see us proceed to get that done. He said there is now a more recent version of the BOCA Code that cuts out some of the red tape.

Commissioner Bailey said he thought our public hearing was a little premature, but if we adopt a code it should be simple, so people can understand it. Commissioner Loffler added the recommendation of the committee was for a housing and structural code and not a mechanical code, and he thought that was unclear at the public hearing. The Board discussed at some length what code is needed and the costs involved. Mr. Grimm recommended a comprehensive code, but Mr. Loffler said he thought some things would have to be taken out; e.g., heating and air conditioning component. The Commissioners did feel that the costs should be supported by a user fee.

Mr. George Wiggin, Middle Department Inspection Agency, spoke strongly in favor of a building code, saying he has supported its adoption for 15 years. Mr. Wiggin said we have some good developers in the County, but we also have some poor workmanship, and proffered some pictures to the Commissioners. He said an important part of adopting the code would be education, and he is looking forward to having seminars on the code, saying they had 90-95% turnout on their recent seminars on the insulation code. Regarding cost, Mr. Wiggin said the County would get a rebate from them on inspections, so it would not be a drain on the County but a cash flow positive. Mr. Wiggin said the CABO One and Two Family Dwelling Code is usually adopted with the Building Code.

The Commissioners' instructions were as follows:

- (1) The 1987 BOCA Code will be adopted with CABO.
- (2) A structural code will be adopted with reenactment of the plumbing and electrical code. Anything else will have to be reviewed.
- (3) Summarize the companion codes for residential and structural which will not be included if a comprehensive code is not adopted.
- (4) Costs will be supported by a user fee (approximately \$150 per home).
- (5) Continue efforts to conduct training.
- (6) The document will be in place prior to public hearing.
- (7) Timetable is 60 days, with staff to report back to the Board in 4 weeks, at which time a decision will be made as to public hearing, depending on the progress made.

This portion of the meeting was concluded at 10:58 p.m.

#### ST. MARY'S COUNTY TOURISM COMMITTEE

Present: Shirley Collery, Regional Tourism Committee  
Cynthia Woodburn,  
Joseph Mitchell,  
Gary Hodge, Director, Tri-County Council

The referenced members of the Regional Tourism Committee appeared before the Commissioners to discuss the tourism efforts and activities of the regional tourism committee and to discuss some concerns regarding lack of coordination.

Ms. Woodburn stated that tourism activities are on three levels--local, activities of the tri-county tourism coordinators, and the regional program and recommended that there not be duplicated efforts.

Mr. Hodge explained the efforts of the regional tourism committee, stating that most of the past year has been spent in developing a theme for Southern Maryland--"So Much so Close", which involved the development of layouts and proposed formats for a video, public service announcements, travel guide, etc. He stated that it was important to move ahead with what has been invested in this program.

Ms. Collery expressed concern that the members of the Regional Tourism Committee have not been afforded opportunities for input on these projects.

Commissioner Jarboe, Chairman of the Tri-County Council, stated that staff of Tri-County Council will make contact with the members prior to setting dates for meetings so that everyone would have an opportunity to be involved in the decisions.

In conclusion there was agreement by all present to improve communications in order to obtain the goals of the tourism effort.

#### PARTY ON THE BAY

Ms. Woodburn advised the Commissioners of the Calendar of Events for the Governor's Party on the Bay. The events began August 18-19 with the Governor's Cup Yacht Race from Annapolis to St. Mary's City. On August 26 there will be a Party on the Bay Day at Point Lookout State Park.

#### DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director

##### 1) Md. Rt. 6 AND OLD MD. RT. 5

Mr. Ichniowski stated that Mr. Brookbank, Director of the Charlotte Hall Maryland Veteran's Home has requested the County to investigate the possibility of closing the old railroad right-of-way between Maryland State Route 6 and Old Route 5. Mr. Brookbank expressed concern with the area being used as a dump and is visible from the Veterans' Home and the Regional Library. Mr. Ichniowski stated that the Amish use the road, which is a gravel road, to travel to New Market and Charlotte Hall farmers' market.

Mr. Ichniowski recommended that he prepare a response to Mr. Brookbank indicating the County will have the area cleaned up, will post "No Dumping" signs at the area, and will have the area monitored. If this action does not correct the problem, then the County would consider closing the road.

##### 2) PUBLIC WORKS AGREEMENT BIG OAK SUBDIVISION

Mr. Ichniowski presented a Public Works Agreement dated May 8, 1989 between William S. Lawrence and St. Mary's County guaranteeing the completion of Four Seasons West and Four Seasons East in Big Oak Subdivision by August 1, 1990. The Agreement is backed by a Letter of Credit with The First National Bank of St. Mary's in the amount of \$53,000.

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



3) HIGHWAY NEEDS INVENTORY

Mr. Ichniowski announced that the Department of Transportation will be making its annual Transportation Plan on November 7, 1989, 9:30 a.m. In order for a project to be included in the Plan, it needs to be included in the Highway Needs Inventory. Therefore, Mr. Ichniowski presented a list of state recommendations and other suggestions to be added to the Highway Needs Inventory to be reviewed.

After discussion Mr. Ichniowski agreed to draft correspondence to the state requesting these projects to be included and requested the Commissioners to contact him if they had additional items.

4) LEXINGTON PARK TRANSPORTATION PLAN

The Commissioners requested Mr. Ichniowski to make a presentation to the Commissioners on September 19 regarding the Lexington Park Transportation Plan, especially the issue of FDR Boulevard.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator

Commissioner Jarboe moved, seconded by Commissioner Thompson, to meet in Executive Session on matters of Personnel as follows. Motion carried.

Personnel

Also Present: Eugene Carter, Director, Office on Aging  
Charles Wade, Director of Finance  
George Foster, Personnel Officer

(Held from 1:00 p.m. to 1:25 p.m.)

Personnel

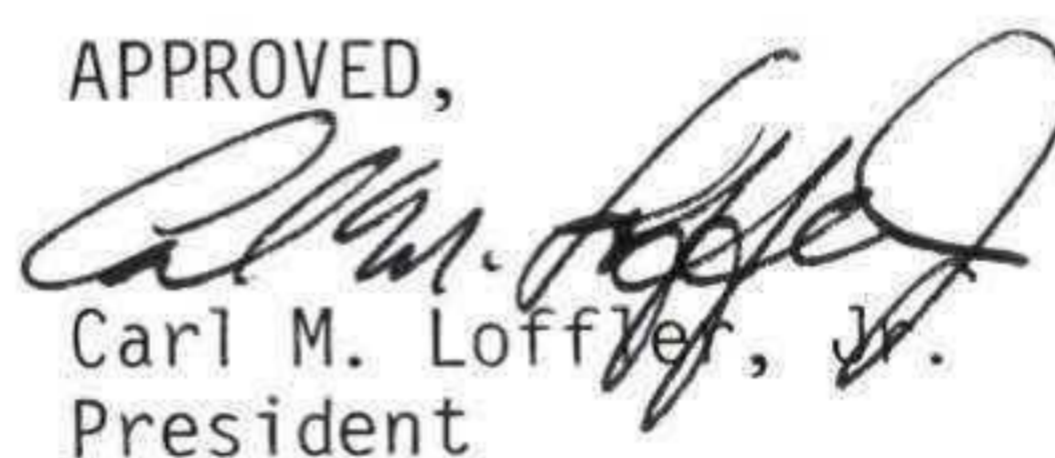
(Held from 1:25 p.m. to 1:50 p.m.)

ADJOURNMENT

SHERIFF'S DEPARTMENT BUILDING DEDICATION AND OPEN HOUSE

The Commissioners adjourned the meeting at 1:50 p.m. and left to attend the dedication and open house of the new Sheriff's Department building.

APPROVED,



Carl M. Loffler, Jr.  
President