

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, April 17, 1990

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

Commissioner Thompson was not present at beginning of meeting.

The meeting was called to order at 9:10 a.m.

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve the minutes of the Commissioners' meeting of Tuesday, April 10, 1990. Motion carried.

APPROVAL OF BILLS

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

CENSUS '90 UPDATE

Present: Mary Pat Agostinelli, Administrative Officer

Miss Agostinelli appeared before the Commissioners to present an update on Census '90 for St. Mary's County stating that people still have time to complete and return the questionnaires. She reported that enumerators will begin a follow up on non-respondents the first week in May.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) INFORMATION RELEASE  
MARCEY HOUSE

The County Administrator distributed an Information Release announcing that the Marcey House received a General Certificate of Approval as a result of the Department of Health and Mental Hygiene's annual on-site review of the Marcey Halfway House in late March.

2) CRIMINAL JUSTICE SYSTEM MEETING

The County Administrator presented correspondence summarizing the discussion of the April 10 criminal justice system meeting and announcing a follow-up meeting to be held July 17, 1:00 p.m. at the Leonardtown Library.

The Commissioners agreed to sign and forward the letter.

3) CEDAR COVE MARINA SEWER ALLOCATION

As follow up to previous discussions the County Administrator presented a copy of correspondence from the Maryland Department of Environment addressed to the Metropolitan Commission regarding sewer service to the Cedar Cove Marina sales office and boat holding tanks for the existing marina slips in accordance with the Piney Point Consent Agreement.

In addition Mr. Cox presented correspondence addressed to the Metropolitan Commission forwarding the Commissioners' formal policy position relative to the provision of sewer service to Cedar Cove Marina and the floating homes located there.

The Commissioners agreed to sign and forward the letter.



4) CIRCUIT COURT FACILITIES/COURTHOUSE RENOVATION

The County Administrator presented a statement of understandings that have been reached in discussions with the two judges and the Director of Public Works regarding court facilities and needed renovations at the courthouse. He stated that the amount budgeted, \$300,000, is not sufficient to cover costs, \$531,000, and suggested that the Director of Finance develop a recommendation to best finance these renovations. During discussion Mr. Cox pointed out that the changes in renovation plans was caused by the inadequacy of the former district court to house the second circuit court and the recently described need for security.

After discussion Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve the renovations and that the Director of Finance determine source of funds.

5) STATE'S ATTORNEY'S OFFICE  
COOPERATIVE REIMBURSEMENT GRANT APPLICATION

On behalf of the State's Attorney's Office the County Administrator presented the referenced Cooperative Reimbursement Grant application at a total cost of \$99,893 to be submitted to the Department of Human Resources.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the grant application as presented. Motion carried.

6) OFFICE OF COMMUNITY SERVICES  
DEVELOPMENT CAPABLE PEOPLE GRANT APPLICATION

On behalf of the Office of Community Services, the County Administrator presented the referenced "Developing Capable People" grant application requesting \$10,000, to be submitted to the Department of Human Resources.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the grant application as presented. Motion carried.

7) ROAD RESOLUTIONS  
PORTNEY'S OVERLOOK SUBDIVISION

On behalf of the Department of Public Works the County Administrator presented the following Road Resolutions:

No. 90-05

Designating Cornell Avenue as a stop street at its intersection with Pine Street

No. 90-06

Posting Cornell Avenue at 25 miles per hour for its entire length.

Posting Portney's Overlook Road at 30 miles per hour for its entire length.

No. 90-07

Posting Freeman Road at 30 miles per hour.



8) BOARD OF EDUCATION  
CATEGORICAL CHANGES

The County Administrator presented correspondence addressed to the Board of Education approval the April 11, 1990 request to transfer funds from the Board's Fiscal Year 1990 budget under the Instructional Salaries and Special Education categories.

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

9) AGREEMENT  
INNOVATIVE AND ALTERNATIVE ON-SITE SEWAGE DISPOSAL SYSTEM

The County Administrator presented the referenced Agreement among Rodney Yoder, St. Mary's County and St. Mary's Health Department for the installation of an I & A system, Seventh Election District.

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

10) FRANK KNOX SCHOOL PROPERTY

The County Administrator stated that as a follow up to the Commissioners' decision of last week, he would recommend that the County continue negotiations with the Navy relative to them obtaining the property for financial or land consideration. He stated that a letter regarding this must be forwarded to our Congressman by the end of April and suggested that it be an agenda item for next week. The Commissioners gave their concurrence.

11) BOARDS, COMMITTEES, COMMISSIONS  
LETTERS OF APPRECIATION

The County Administrator presented correspondence addressed to chairpersons of various boards, committees, and commissions expressing appreciation for presentation of their annual reports.

The Commissioners agreed to sign and forward the letters.

PRIVATE INDUSTRY COUNCIL  
STATUS REPORT

Present: Todd Brace, Director

Mr. Brace appeared before the Commissioners to present a status report of the Private Industry Council. Opening his presentation, Mr. Brace pointed out PIC's mission, which is to assist individuals with barriers to employment in overcoming those barriers. By way of charts, Mr. Brace reviewed the membership of the Council, target groups for assistance, funding and funding participants. he also reviewed the challenges facing PIC which include shrinking resources, public education, and interagency coordination.

In conclusion Commissioner Loffler suggested that future reports include experience and success rates to which Mr. Brace agreed to provide follow-up data.



OFFICE ON AGING  
TRANSPORTATION PROGRAMS - FISCAL YEAR 1991

Present: Gene Carter, Director, Office on Aging  
Jennie Page, OOA

Mr. Carter appeared before the Commissioners to present the Fiscal Year 1991 Transportation Programs which include: Public Rural Program, SSTAP, and Title III-B Service. He explained the services provided, funding and funding sources, and proposed program priorities and expansion. Priorities include extension of hours of operation, extension of public transportation routes, modernization of of fleet, and improvement of program efficiency. Mr. Carter further discussed equipment purchase objectives--two wheelchair lift equipped minibuses and wheelchair lift equipped minibuses from MTA (one of which is included in the grant application)

During discussion the Commissioners discussed the need for placement of bus kiosks throughout the county. Mr. Carter suggested that the first one be placed at the Governmental Center.

After discussion Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Transportation program grant application as presented. Motion carried.

COMPOSTED SEWAGE SLUDGE

Present: Tom Russell, Director, Environmental Hygiene  
Doug Proctor, Md. Dept. of Environment  
Dr. Goins, University of Maryland  
Dan Schwalm, PRSM, Sales Rep.  
Bradford Reeves, Chairman, Agr./Seafood Commission  
James Owens, "  
Bill Trossback, "

The referenced individuals appeared before the Commissioners to discuss the possible use of composted sewage sludge as a soil additives and enhancer. Mr. Russell stated that it is currently illegal in St. Mary's County to use sludge and the Agriculture Commission is interested in pursuing the legal aspects of its use. Mr. Proctor indicated that except for two counties, Garrett and St. Mary's, it is used state wide as for home use and garden centers. He stated that it is a good soil conditioner and is also used for sodding landfills. He further pointed out that there is extensive state laws regarding sewage sludge management and the compost must meet the standards of MDE based on USDA and EPA guidelines before it can be distributed.

During discussion Mr. Schwalm referred to the local regulations regarding sewage sludge and stated that there is a difference between compost and sludge.

The Commissioners raised the question of legality of using the compost and agreed that a public hearing should be held. Commissioner Jarboe requested that the Agriculture and Seafood Commission submit a letter of recommendation prior to scheduling a hearing.

(Commissioner Thompson entered meeting 11:15 a.m.)



SOUTHERN MARYLAND COOPERATIVE PURCHASING AGREEMENT

Present: James Haley, Procurement Officer  
Alice Virts, Department of General Services

The referenced individuals appeared before the Commissioners to present the referenced purchasing agreement and reviewed the background leading up to this briefing. The participants in the Agreement are Calvert, Charles and St. Mary's Counties and the State of Maryland.

During discussion the Commissioners raised questions whether the purchasing agreement would prevent small businesses from participating.

The County Administrator suggested that Mr. Haley report to the Commissioners in December on the progress of the agreement.

After discussion Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve and sign the Southern Maryland Purchasing Agreement. Motion carried four to one with Commissioner Lancaster voting against motion stating that he was concerned that a number of small business would be eliminated from competition.

ALL AMERICA CITY AWARD

Present: Judy Landau Pedersen, Public Information Specialist  
Mary Pat Agostinelli, Administrative Officer  
Ann Marum, Director, Chamber of Commerce  
Joe Kuhna, Leonardtown Community Development

The referenced members of the All-America City Award Committee before the Commissioners to present an update of the All-America City Award. Mrs. Pedersen reported that the Committee has selected three nominations for this year's application: Comprehensive Land use Plan redrafting effort, the work of the Alliance for Alcohol and Drug Abuse Prevention, and the creation and expansion of the Model General Assembly Program. On May 4-5, 1990 a Screening Committee will select 30 finalists communities, and a final evaluation will be held June 7-9 with ten winners being announced on June 9.

After discussion Commissioner Jarboe moved, seconded by Commissioner Thompson, to submit the application forwarding the three projects as presented. Motion carried.

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign Budget Amendment No. 90-52 to provide funding in the amount of \$400 for the filing fee for the 1990 All-America City Award Program. Motion carried.

PUBLIC HEARING

BOATEL CALIFORNIA QUIT CLAIM DEEDS

Present: Joseph Densford, County Attorney  
Michael Harris, Attorney, Boatel California  
A. Hugo Decesaris, Boatel California  
Robert Herndon, Patuxent Beach resident  
Oran Wilkerson, "  
Lois Watson Shuffle "  
Ernie Modlin "  
James Smith "  
Frances Anderson "

The Commissioners conducted a public hearing on which of two deeds the Commissioners would agree to accept from Hugo Decesaris Limited Partnership regarding a strip of land fronting on Patuxent Beach Road and the Patuxent River. The notice of public hearing was published in the April 4 and 11, 1990 issues of The Enterprise newspaper.



Mr. Densford stated that the first deed conveys Parcel A to the County and acknowledges exclusive right and ownership of existing pier and allowing 20 foot right-of-way over Parcel A. The second alternative deed conveys Parcel A to the County with no reference to the pier or right-of-way.

Mr. Harris presented the following documents which he believed supported his client's position that the pier was included as part of boatel property:

- Two photographs that showing the location of the pier
- Copy of brochure dated 1963 showing the Seven Gables Hotel property and pier.
- Letter dated April 17, 1990 from Department of Assessments indicating a value had been assigned to the piers of the property but since they were not identified by location, they could not determine which piers were assessed.
- December 8/15, 1986 Planning Commission Agenda with recommendations.
- Copy of Nov. 19, 1986 letter from Karen Abrams to Planning and referring to site plan and the pier.
- Copy of letter dated July 25, 1986 from Department of Public Works to Lorenzi, Dodds, & Gunnill regarding site plan.
- September 26, 1988 Planning Commission minutes regarding Seven Gables Hotel.
- Legal Notice of sale of Seven Gables property printed in the May 23, 1974 Enterprise which states that the property is improved by a pier extending into the Patuxent River.
- Report of Sale of Seven Gables property.
- Easement Agreement dated May 15, 1967 between D.R. Blair and Louise M. Blair and St. Mary's County regarding construction of a bulkhead.

Mr. Harris stated that he believed the evidence indicates the pier belongs to the owners of the Seven Gables Hotel property. He advised that he is requesting the Commissioners to acknowledge his client's right to that pier by accepting the Deed that acknowledging that right and whatever he is entitled to do to that pier.

Mrs. Watson-Shuffle raised questions regarding the mortgage on the property and that deeds should be cleared before Commissioners take any action.

Mr. Herndon, on behalf of the Patuxent Beach Community Association, presented plans and documentation that referred to a chain of deeds from September 1951 which he believed did not support the contention of Mr. Decesaris that the pier was part of the hotel property. He further pointed out that navigatable water and the land under it is held by the state for the benefit of the public. State control extends to mean high tide. He stated that riparian rights have been primary among the factors controlling the Army Corps of Engineers' permission to build a pier and that a pier in the river requires ownership of the shore. Mr. Herndon indicated that the Corps does not list the pier nor does the Department of Assessments list it as a pier and which may be because it is an unauthorized construction or some other circumstance. He further stated that in tracing the history it appears that the pier has been used as a public pier.

During his presentation Mr. Herndon advised that the Patuxent Beach Community Association recommend the following:

1. That the Commissioners accept the validity of state/county ownership of the waterfront and riparian rights.
2. That the search of the history of pier continue.
3. That the Commissioners accept the Quit Claim Deed to Parcel A provided that it includes the phrase contained in Schedule B regarding bulkhead, piers, riparian rights.



4. That determination of ownership of the pier be deferred until a site plan concerning the area is received.
5. That the public holding of waterfront ownership and riparian rights not be transferred to private or commercial interests.
6. That action be taken to remove "A" Street from the Schedule "A" portion of the Decesaris deed and thus from the mortgage deed.

Mr. Wilkerson presented a written statement support the evidence presented by Mr. Herndon and urged the Commissioners to accept the March 2, 1990 Quit Claim Deed version which gives the County clear title to the strip and waterfront without granting Mr. Decesaris any rights or giving him any concessions.

Mr. Modlin presented a letter requesting that the Commissioners not grant an easement to Boatel California for riparian rights on the Patuxent River.

Mr. Smith expressed opposition to the Commissioners granting rights to the pier.

Mrs. Anderson expression opposition to the Commissioners granting rights to the pier.

To counter Mr. Herndon's claim regarding riparian rights, Mr. Harris stated that once an individual receives those rights, it is his.

In closing Commissioner Loffler requested the County Attorney to provide the Commissioners with copies of the chain of deeds since 1951 and to highlight in those deeds what would be construed as a transfer of pier rights.

The hearing closed and Commissioner Loffler indicated that the matter will be discussed by the Commissioners in two weeks.

A copy of the handouts presented at the hearing and a tape of the proceedings are on file in the Commissioners' Office.

#### AICUZ UPDATE

Present: Jon Grimm, Director, Planning and Zoning  
Laura Clarke, Planning and Zoning  
Capt. Wright, Commanding Officer, NAS  
Bud Lamb, NAS  
Keith Fairfax, Planning Commission  
Representatives from NAS  
Planning Commission Representatives

Because of recent activities regarding projects affected by the AICUZ, the referenced individuals appeared before the Commissioners to brief the Board on the AICUZ (Air Installation Compatible Use Zone) of the Patuxent River Naval Air Station.

By way of a slide presentation Mr. Lamb reviewed the purpose of AICUZ, flight patterns and operations, noise levels, accident potential zones and the AICUZ Plan.

Miss Clarke reviewed the maps and explained the various AICUZ zoning levels and noise zones.

With regard to potential development within the AICUZ, Mr. Grimm noted that any development activity will go through the Technical Advisory Committee (TEC) process. He further pointed out that prior to any project getting started, the applicant needs to check the zoning of the area with regard to the AICUZ overlay.



A tape of the proceedings is on file in the Commissioners' Office.

ST. MARY'S COUNTY DEVELOPMENTAL CENTER  
FUNDING ISSUES

Present: Jack Hormel, Director  
Norma Powers

Mr. Hormel advised the Commissioners that in 1984 the Maryland General Assembly directed that the Department of Health and Mental Hygiene develop a cost-related reimbursement system for state-funded community services for individuals with mental retardation/developmental disabilities. This request was based on that fact that there was inequitable distribution of funding. He stated that over the next three to four years, various committees reviewed funding methodology to try to develop a system that would be equitable based on the need of the client, which resulted a prospective payment system. He pointed out that under the prospective payment system the rates for service to clients would decrease from \$33 to \$27, and with 69 clients would result in a loss of over \$105,000 a year. Mr. Hormel indicated that for Fiscal Year 1991 and 1992 the Developmental Center had the option of funding under the prospective payment system which would result in decreased revenue or stay at the same rate as Fiscal Year '90 with no inflationary increase. Over the two years of holding at that rate the Center would lose \$22,236 per year.

Mr. Hormel suggested that the County assist the Center by requesting the State to relook at the prospective payment system inasmuch as the original premise of the the program was more equitable distribution of funds and to assist clients with the most needs. He stated that that methodology used to determine client needs is also in question in other jurisdictions throughout the State.

In conclusion the Commissioners requested the County Administrator to work with Mr. Hormel in developing a letter to the Governor and to the State Legislators to review the funding system program.

ZONING ORDINANCE PUBLIC HEARING RECORD

Present: Jon Grimm, Director, Planning and Zoning

The Commissioners having conducted Commissioner Loffler advised that he would like the Board to consider extending the period for keeping the record open on the Zoning Ordinance for 30 days rather than the normal ten days.

Commissioner Jarboe indicated that considering the length of time that the County has been working on the Ordinance, he did not see a need to extend the period beyond ten days.

Mr. Grimm pointed out that from a professional point of view he believe that comments have been solicited from the public during the entire process.

Commissioners Bailey, Jarboe, and Lancaster agreed that the record be closed after ten days which would be Friday, April 20. Therefore, it was the consensus of the majority of the Board to close the record on April 20, 1990.

Commissioner Loffler stated that there are parts in the draft Ordinance that have dramatically changed, i.e., making legal illegal non-conforming uses and critical area overlay. He further stated that he wanted to make sure that development would not be triggered automatically by a sewer line in town centers. He suggested that these three issues be pulled from the Ordinance and considered separately as an amendment at a later time.

Mr. Grimm stated that he would summarize all the comments received in written form for presentation to the Commissioners at next week's meeting.

In conclusion the Commissioners suggested a work session with the Planning Commission on the Ordinance.



FINANCIAL REVIEW


Present: Charles Wade, Director of Finance  
Joseph Mitchell, Director, Economic & Community Development

Mr. Wade and Mr. Mitchell appeared before the Commissioners to review the economic profile of St. Mary's County which will be presented at the FY '91 budget public hearings on April 18 and 19.

ADJOURNMENT

The meeting adjourned at 5:15 p.m.

APPROVED,

  
Carl M. Loffler, Jr.  
President