

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, November 27, 1990

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

(Commissioner Rodney Thompson was not present.)

CALL TO ORDER

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

APPROVAL OF MINUTES

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve the minutes of the Commissioners' meeting of Tuesday, November 20, 1990 and the Planning and Zoning portion of the November 13, 1990 meeting. Motion carried.

APPROVAL OF BILLS

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

COUNTY ADMINISTRATOR'S ITEMS

Present: Edward V. Cox, County Administrator

1) **COUNTY COMMISSIONERS' MEETING**
LAST WEEK IN DECEMBER

The County Administrator advised that Tuesday, December 25, 1990 and Tuesday, January 1, 1991 are holidays and recommended that the Commissioners meet on Monday, December 31 for half a day to pay bills and take care of administrative items.

The Commissioners gave their concurrence.

2) **CORRESPONDENCE**

The County Administrator presented the following items of correspondence for the Commissioners' review and signatures:

To Election Board and Staff congratulating them for a job well done during the primary and general elections.

To Dr. Richard Martin expressing appreciation for his service on the Marcey House Board.

To Mrs. Leila Rogers who corresponded relative to visiting her husband at the Nursing Center.

3) **CLEARINGHOUSE PROJECT NO. MD 901031-0996**
PATUXENT WOODS APARTMENTS

The County Administrator presented the referenced clearinghouse project recommending that it be forwarded to the State with the comment that it is consistent with the County's plans, programs or objectives. The Commissioners gave their concurrence.

4) COMPREHENSIVE WATER AND SEWER AMENDMENT
RESOLUTION NO. W/S90-06 - SHORT ACRES (SPEC #88-1986)

Application by Alva Watson to amend the Comprehensive Water and Sewer Plan for property located in the Eighth Election District located in the Critical Area and designated RCA containing 6.3 acres, zoned RL, on Rue Purchase Road/Camp SAYSF road to change sewer category from S-6 to S-3D, Tax Map 43, Block 4, Parcels 209 and 490.

Having conducted a public hearing on October 16 the County Administrator presented the referenced Resolution approving the water category change as requested.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and sign the Water/Sewer Amendment as presented. Commissioner Loffler voted against the motion. The motion carried. three to one.

5) SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
AMENDMENT TO GRANT AGREEMENT

The County Administrator presented an amendment to the referenced Small Cities Community Development Block Grant Program with the Department of Housing and Community Development which changes the project completion date to September 1991.

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

ARTICLES OF ORGANIZATION
ST. MARY'S COUNTY HOUSING AUTHORITY

Present: Joseph Mitchell, Director, Economic & Community Dev.

Mr. Mitchell appeared before the Commissioners to advise that Article 44A of the Annotated Code of Maryland as amended in 1990 allows political jurisdictions to bring existing Housing Authorities under Articles of Organization. He presented a Resolution for the Commissioners consideration adopting Articles of Organization for the St. Mary's County Housing Authority. He stated that adoption of these Articles would grant St. Mary's County certain powers relative to housing, the most significant ones being: to act and invest as a general partner and as a limited partner in housing projects and to allow permit mixed income housing.

The Commissioners agreed to review the proposed Articles of Organization as presented and discuss them at their meeting of December 11.

QUIT CLAIM DEED

Mr. Mitchell advised that he has received a Quit Claim Deed from Phil Dorsey for the old Minitec property south of Leonardtown on Route 5. He stated that there has been a question as to the ownership of the land surrounding the building. There was a condition with that property that if it was not used for industrial purposes it would revert back to the County and the County claims that it was not used for industrial purposes and should revert back to the County. Mr. Dorsey had acquired the Minitec building, and if the County would accept the Quit Claim Deed, he would be willing to sell land to the Housing Authority in Lexington Park at a price slightly below market value. He stated that funds are available from the Housing Authority for this purchase. Mr. Mitchell indicated that this would resolve the legal issue regarding the property

surrounding Minitec, on which the County has brought suit against Mr. Dorsey. Mr. Mitchell stated that the County Attorney and the Housing Authority feel that this is a reasonable solution.

The Commissioners agreed to meet with Mr. Mitchell and County Attorney Densford in Executive Session later in the day to discuss this matter of pending litigation.

RESOLUTION NO. 90-21
1990 GENERAL OBLIGATION BONDS

Present: Edward Clark, Piper & Marbury, Bond Counsel
Stewart Diana, "
Jim Thorson, Alex Brown, Financial Advisor

The referenced individuals appeared before the Commissioners to present and review the proposed Resolution authorizing the issuance and sale of \$6,850,000 of general obligation bonds designated as St. Mary's County Public Facilities Bonds of 1990. The net proceeds to be used for financing certain capital projects in the County.

After discussion Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve and sign Resolution No. 90-21 authorizing the issuance and sale of general obligation bonds as presented. Motion carried.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator

Commissioner Bailey moved, seconded by Commissioner Lancaster, to meet in Executive Session to discuss a matter of Personnel at this time and to discuss matters of property acquisition and litigation later in the day. Motion carried. The Session on Personnel was held from 10:35 a.m. to 10:55 a.m.

ST. MARY'S NURSING CENTER
MARKET ASSESSMENT FOR ELDERLY SERVICES

Present: David Bender, Ernst & Young
Kevin Barr, "
John Flowers, "
George Smith, Director, St. Mary's Nursing Center
Rose Slade, Chairperson, "
J. Wilmer Bowles, "

The referenced representatives of Ernst & Young appeared before the Commissioners to present and review the Summary Findings and Recommendations-Market Assessment for Elderly Services for the St. Mary's Nursing Center. Mr. Bender reviewed the overall Scope of Engagement which was to look at the feasibility of expansion of the Nursing Center. Mr. Barr reviewed the Environmental Assessment which included Utilization, Financial Capabilities, Facility and Property, Role and Image, Market Area, and Market Area Demographics. He further reviewed the key opportunities identified for detailed assessment, results of detailed assessment, including comprehensive care beds and domiciliary care beds, adult day care, skilled therapies.

During discussion Mr. Bender presented Ernst & Young's recommendations which included 40 comprehensive care beds and 20 domiciliary care beds, and recommended that the Commissioners approve the Proposed Action Plan.

Mrs. Slade indicated that the Nursing Center Board has recommended approval of the Action Plan.

County Administrator Ed Cox pointed out that this is a Building Authority Commission project, and the Building Authority would oversee the work of the architectural/engineering firm. The Commission will be looking toward advance funding from the County or from the Nursing Center, which would be reimbursed from project costs.

After discussion Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve the Action Plan as presented. Motion carried.

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director

1. COMBINED LOCATION/DESIGN MD. RT. 237

Mr. Ichniowski presented a handout that will be distributed at the State Highway Administration's November 29 public hearing regarding the alternatives for reconstruction of Md. Rt. 237 from Md. Rt. 235 to Md. Rt. 246. Commissioner Loffler stated that he believes that the County should indicate the need for sidewalks for this road.

2. POINT BREEZE AT COLTON POINT REVETMENT PROJECT
WETLANDS LICENSE

Mr. Ichniowski presented a Wetlands License from the Maryland Board of Public Works for the construction of a 600 foot stone revetment on the Potomac River adjacent to Point Breeze Road at Colton Point.

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

3. RAILROAD RIGHT-OF-WAY
BANK OF SOUTHERN MARYLAND

Mr. Ichniowski advised that he has received a request from the Bank of Southern Maryland for use of the railroad right-of-way in the Hughesville area. The request was initiated through Southern Maryland Electric and SMECO has indicated no objection.

Because of the possibility of creating traffic problems in later years, Commissioner Loffler stated that he would like to talk with the Charles County Commissioners before approving any use of railroad right-of-way requests located in Charles County. (This matter will be discussed at the Tri-County Council retreat to be held December 13 at Harry Lundeberg School.)

4. PUBLIC WORKS AGREEMENTS/ADDENDUMS TO PUBLIC WORKS AGREEMENTS

Mr. Ichniowski presented the following Public Works Agreement and Addendums to Public Works Agreements as follows:

Wildewood - Hickory Nut Drive

Public Works Agreement dated October 30, 1990 between Paragon Builders and St. Mary's County setting the deadline for completion of Hickory Nut Drive by November 1, 1991. The Agreement is backed by a Letter of Credit with Maryland Bank & Trust Company in the amount of \$102,000.

Laurel Ridge, Section 2

Addendum to Public Works Agreement between Swarey Builders, Inc. and St. Mary's County extending the deadline for completion of improvements to November 1, 1991. The Addendum is backed by a reduced Letter of Credit in the amount of \$14,000 with Maryland Bank & Trust Company.

Laurel Ridge, Section 3

Addendum to Public Works Agreement between Swarey Builders, Inc. and St. Mary's County extending the deadline for completion of improvements to December 1, 1991. The Addendum is backed by a reduced Letter of Credit in the amount of \$90,000 with Maryland Bank and Trust Company.

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

5) **CALLING LETTERS OF CREDIT**

Mr. Ichniowski presented the following correspondence calling letters of credit:

Flower of the Forest, Building Two

Grading Permit #89-14; Letter of Credit #301-A with Maryland Bank and Trust Company in the amount of \$21,500.

Peachtree Way

Grading Permit #89-23; Letter of Credit #291-A with Maryland Bank and Trust Company in the amount of \$19,000.

Peachtree Way

Public Works Agreement; Letter of Credit #292-A with Maryland Bank and Trust Company in the amount of \$35,000.

Wildewood (Smoke Hill and Cottonwood Parkway)

Public Works Agreement; Letter of Credit #294-A with Maryland Bank and Trust Company in the amount of \$57,000.

Swan's Rest Subdivision

Public Works Agreement; Letter of Credit #A2-8-24-1990 with First National Bank of St. Mary's in the amount of \$41,000.

Greenview Business park and Longfield Village

Grading Permit #87-42; Letter of Credit #A1-8-30-90 with First National Bank of St. Mary's in the amount of \$9,750.

Bay Ridge Estates, Section 1, SWM

Grading Permit #90-15; Letter of Credit #2891072 with Maryland National Bank in the amount of \$95,100.

McDonald's of Lexington Park

Construction Permit CP 11/89 ROW-26
Bond No. 3SM 606533-00 with American Motorists Insurance Company in the amount of \$1,300.

McDonald's Site, Lexington Park

Grading Permit #90-13; Bond NO. 3SM 606 532-00 with American Motorists Insurance Company in the amount of \$50,200.

Eagles Glen Mobile Home Park

Grading Permit #88-22; Bond No. KO 32 61 30 A with Insurance Company of North America in the amount of \$117,500.

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to authorize Commissioner Loffler to sign the referenced correspondence calling letters of credit to be forwarded if necessary. Motion carried.

6) ACCEPTANCE OF DEEDS
ROAD RESOLUTIONS

Mr. Ichniowski presented the following Deeds and related Road Resolutions for the Commissioners' consideration and approval:

Countryside Subdivision

Deed dated March 14, 1988 between Israel Z. Swarey and St. Mary's County Commissioners accepting Watt Drive and Ronald Drive into the County's Highway Maintenance System.

Road Resolution No. R 90-44 posting Watt Drive and Ronald Drive at 25 miles per hour.

Road Resolution No. R 90-45 designating the following streets as Stop Streets:

Watt Drive as it intersects with Pegg's Road;
Ronald Drive as it intersects with Pegg's Road;
Watt Drive as it intersects with Ronald Drive.

Road Resolution No. R 90-46 renaming Jacob Court to Ronald Drive.

Westbury Subdivision (formerly Tosca)

Deed dated December 16, 1988 between Interstate General Company and St. Mary's County accepting Premery Drive (formerly Mikado Drive) into the County's Highway Maintenance System.

Deed dated August 1988 between Interstate General Company and St. Mary's County accepting Westbury Boulevard (formerly Tosca Boulevard) into the County Highway Maintenance System.

Road Resolution No. R 90-41 renaming Tosca Blvd. to Westbury Boulevard;

Road Resolution No. R 90-42 designating the following roads as Stop Streets:

Westbury Boulevard as it intersects with Md. Rt. 246;
Premery Drive as it intersects with Westbury Blvd.

Road Resolution No. R 90-43 posting Westbury Blvd. and Premery Drive at 25 miles per hour.

Extension of Lexwood Drive

Deed dated March 30, 1988 between St. Mary's County Community Development Corporation and St. Mary's County accepting the Extension of Lexwood Drive into the County Highway Maintenance System.

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign the referenced Deeds and Road Resolutions as presented. Motion carried.

9) ROAD RESOLUTIONS

Mr. Ichniowski presented the following Road Resolutions for the Commissioners' consideration:

R 90-39
Courthouse Drive

Posting Courthouse Drive at 25 miles per hour.

R 90-40
St. John's Road

Post St. John's Road as a No Parking Zone from its intersection with Old Md. Rte. 235 for a distance of approximately 150 feet in a southerly direction on the eastern side of the road.

EXECUTIVE SESSION
PROPERTY ACQUISITION

Present: Edward V. Cox, County Administrator
Dan Ichniowski, Director, Department of Public Works

(As per earlier motion to meet in executive session.)
The Session was held from 11:55 to 12:20 p.m.

BOARD OF EDUCATION

Present: William Burroughs, Superintendent
Joan Marsh, President
Jean Campbell
Al Lacer
Roric Thomas

1) MARYLAND SCHOOL PERFORMANCE PROGRAM REPORT FOR 1990

Dr. Burroughs referred to the referenced previously distributed School Performance Program Report which provides state and local baseline data on student performance throughout the State. Dr. Burroughs advised that the Board of Education will be submitting a school-by-school breakdown.

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

2) SUPPLEMENTAL BUDGET REQUEST

Board of Education representatives question the October 30 correspondence from the County Commissioners in the belief that funds designated for energy were inflated and that they believed that other needs should be funded. The Board of Education representatives accepted the Commissioners' decision not to fund recurring personnel costs, but requested an exception for the seven-period day paraprofessionals at the high school level to relieve instructional staff of certain non-teaching responsibilities.

The Board of Education agreed to review its requests in line with its previously submitted priority and resubmit it to the Commissioners at the December 11 meeting at 2:30 p.m.

3) GREAT MILLS HIGH SCHOOL FACILITY IMPROVEMENTS

Dr. Burroughs indicated that there was evidently a misunderstanding regarding the source of the \$30,000 approved by the Commissioners for the referenced project. He stated that the funds used were taken from

another Board of Education capital improvement project. There was a misunderstanding that this project was not going to be done, when in fact the project is still being planned.

Commissioner Loffler stated his opinion that a mistake had been made and that the County needs to locate a source of funding; however, the Great Mills project will continue on schedule.

4) CHOPTICON HIGH SCHOOL TRACK RESURFACING

Also Present: Jerry Himmelheber, School Construction

Mr. Himmelheber distributed documents summarizing the Chopticon Track Project, which indicated a project balance of approximately \$25,000. From that balance, the Board of Education requested \$9,000 for fencing to provide crowd control alongside of the track; approximately \$14,000 for track-related equipment and a storage building; \$2,000 to be transferred to a Great Mills High School project which had exceeded the project budget.

After discussion Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve the use of the \$25,000 project balance as identified. Motion carried.

5) ADEQUATE PUBLIC FACILITIES

The Board of Education raised the concern that the upcoming public hearing on Adequate Public Facilities, especially related to adequate school facilities could cause confusion relative to school districts and the adequacy of school facilities.

During discussion there was agreement that the word "district" needed to be properly defined to mean St. Mary's County is one school district and that those boundaries for certain school are flexible zones.

OFFICE OF PLANNING AND ZONING

Present: Joe Meinert, Deputy Director
Peggy Childs, Recording Secretary

1) Decision Discussion
SPEC #88-0183 - Persimmon Hills
Water Category Change

Also Present: Tom Russell, Director Environmental Health

Requesting approval of a water category change from W-6 to W-3 for 208.6 acres, zoned RPD, located in the Fifth Election District on the north side of Maryland Route 5 approximately one mile north of its junction with Route 235; Tax Map 9, Block 15, Parcel 56.

Owner: Fox Lumber Company
Agent: McCrone, Inc.

Mr. Meinert advised that no public comments have been received since the Commissioners' public hearing on November 13, 1990. Both staff and the Planning Commission recommend approval.

Commissioner Bailey moved, for approval, seconded by Commissioner Lancaster.

Commissioner Loffler stated that there is still no water policy in the northern end of the County. Mr. Russell advised, though, that the developer will have to drill a test well for WRA, as would any subdivision this size. Commissioner Loffler maintained that we have two other

projects held up in that part of the County because of the lack of a water policy and he would recommend the project not be approved until a water policy is in place.

Mr. Cox reminded that the State has said none of the three projects fit in the category of high volume users to the detriment of area residents. Commissioner Loffler replied that has not been what the State has said--they have said there is plenty of water, but how you draw it out is of major concern, and it would be a prudent policy to look at the volume of what is coming out and provide them with information as to the future plans for the area. Mr. Cox stated that is true for the future, but they have guaranteed us for the present that this is not an immediate concern. Commissioner Loffler replied he didn't get that out of what the State said, he thinks the State agrees it would be good to have a policy.

Commissioner Loffler called for the vote on the motion, which passed by a vote of three to one; Commissioner Loffler voted against.

2) PVC Schedule 40 Pipe

Also Present: Deedy Garner, Plumbing Board Chairman
Tom Russell, Director, Environmental Health

The public hearing on this request was also held on November 13, 1990. The Plumbing Board and the County Plumbing Inspectors have asked that Resolution No. 85-06 be amended to require PVC Schedule 40 pipe throughout the County for private sewer connections.

Commissioner Loffler stated he doesn't think the Plumbing Board has provided justification as to where there are problems with SDR 35.

Commissioner Bailey said he has no problem with going to Schedule 40 pipe because the Plumbing Board feels it is the best pipe in the long run for the County and so do most of the plumbers he has talked to, but he does have a concern that the implementation date allow those with SDR 35 stock on hand to use it up.

Plumbing Board Chairman Deedy Garner spoke again to the Commissioners, reading sections of the Plumbing Code and stating the price difference between SDR 35 and PVC Schedule 40 is 49.75 cents, approximately double, which he said equals out when you consider the additional bedding required under and around SDR 35. He said SDR 35 is the minimum requirement under the State Code, and restated his position of November 13 that PVC Schedule 40 is a better stronger pipe. He added the only developer in the County who uses SDR 35 is Mr. Wettengel.

Commissioner Loffler asked how a resolution requiring County-wide use of Schedule 40 would affect MetComm. Mr. Garner said it would not affect them at all, because they are governed by different Code requirements for public utilities, not the Plumbing Code, and the requested amendment is only intended to apply to private sewer connections.

The Commissioners discussed, if Schedule 40 is required, what would be a reasonable time to allow SDR 35 stock to be used. Mr. Russell suggested an implementation date of July 1, 1991, pointing out we are heading into winter weather which makes groundwork difficult. Mr. Garner added he would ask that any SDR 35 installed be very carefully inspected. Mr. Loffler replied if the Commissioners opted to go to Schedule 40 pipe, those who use SDR 35 in the interim would be warned that it has to be properly supported by sand and gravel and our inspectors would be instructed to give special attention to those projects to ensure that they are satisfactory.

Commissioner Jarboe moved, to amend Resolution 85-06 to establish PVC Schedule 40 pipe as the minimum requirement throughout the County for private sewer connections, effective July 1, 1991. The motion was seconded by Commissioner Lancaster and passed by unanimous vote. Commissioner Loffler added we can take care of watching SDR 35 installations more closely in-house, by asking our Plumbing Inspectors to make careful inspections.

WATER POLICY

Present: Tom Russell, Director, Environmental Health
Joe Meinert, Deputy Director, Planning and Zoning

The County Administrator presented correspondence from the Water Resources Administration outlining a proposal for a joint effort between WRA and St. Mary's County to drill a well in the northern end of the County to a deeper aquifer. Mr. Cox indicated that the cost to do two wells (Aquia Aquifer in the Golden Beach area and a deeper aquifer) would be approximately \$9,800; however, if the County provides the backhoe equipment the cost would be approximately \$9,000.

The County Administrator also presented a memorandum from the Metropolitan Commission which indicated that the best place to drill the test well would be in the vicinity of the previous well at the Charlotte Hall Veterans Home.

During discussion the Commissioners indicated that they would prefer to have the test well for the deeper aquifer done in a development area of the northern end of the County. Mr. Cox agreed to work with the Director of Environmental Hygiene for the selection of a site.

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to authorize the County Administrator to determine a source of funds for the \$9,000 to do the test wells as outlined, contingent upon location of an appropriate site. Motion carried.

WATER POLICY TASK FORCE

The County Administrator presented a memorandum dated November 27 outlining the purpose, time period and possible members of a Water Policy Task Force with the end goal of submitting a draft ordinance regulating well drillers to the Board of County Commissioners.

The Commissioners will review the list and take action at a later date.

EXECUTIVE SESSION
LITIGATION

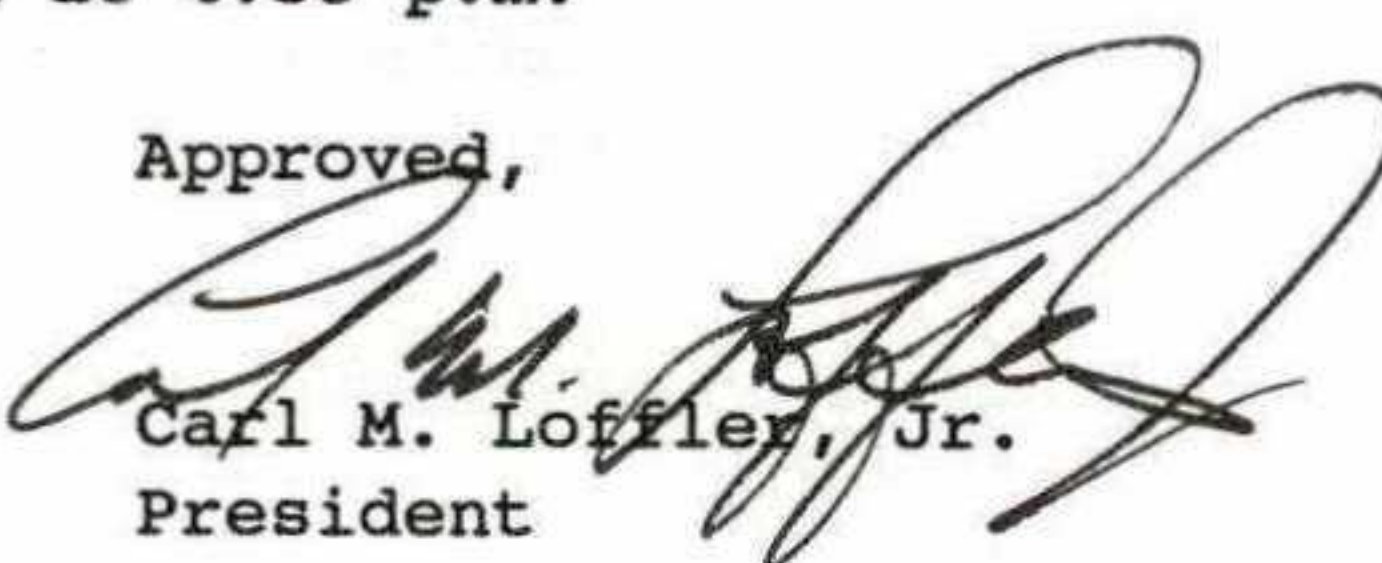
Present: Edward V. Cox, County Administrator
Joseph Mitchell, Director, DECD
Joseph Densford, County Attorney

(As per previous motion to meet in Executive Session.)
The Session was held from 4:00 p.m. to 4:35 p.m.

ADJOURNMENT

The meeting adjourned at 4:35 p.m.

Approved,


Carl M. Loffler, Jr.
President