

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, January 22, 1991

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

CALL TO ORDER

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

APPROVAL OF MINUTES

Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve the minutes of the Commissioners' meeting of Tuesday, January 8, 1991. Motion carried.

Commissioner Thompson moved, seconded by Commissioner Jarboe, to approve the minutes of the Planning and Zoning portion of the Commissioners' meeting of December 11, 1990. Motion carried.

APPROVAL OF BILLS

Commissioner Jarboe 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) **INFORMATION RELEASE**
ASSESSMENTS MEETING

The County Administrator presented an Information Release announcing that the Commissioners will be sponsoring an informational meeting on the topic of property assessments on Tuesday, February 5, 1991 at 7 p.m. in the Carter State Office Building.

The Commissioners agreed to distribute the Information Release.

2) **CLEARINGHOUSE PROJECT NO. MD 901204-1076**
CHESAPEAKE BAY PUBLIC EDUCATION AND PARTICIPATION PROGRAM

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

The Commissioners gave their concurrence.

3) **BUDGET AMENDMENT NO. 91-35**
TREASURER'S OFFICE

The County Administrator presented the referenced Budget Amendment recommended for approval by the Director of Finance with the following justification: To provide funding for updated software package for tax collections.

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

4) INTERIM CHANGE TO PERSONNEL MANUAL

The County Administrator presented a memorandum dated January 16 from the Personnel Office requesting an interim change to the Personnel Manual which would provide that for new employees on or after January 1, 1991 would receive personal leave days on a prorated basis.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve the interim change as requested. Motion carried.

5) CORRESPONDENCE

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

- Community College Site Proposal - To John Collich expressing appreciation for his offer of a possible site for the proposed Community College branch at St. Mary's and will take this offer under advisement.
- Administrative Leave - Board Member - To Admiral Boecker requesting administrative leave for Thomas Anthony Bowles, a member of the County's Board of Appeals and Agriculture Seafood Commission, when it is necessary he attend day meetings.
- Board of Education - FY '91 Budget - To President of the Board of Education requesting a presentation on the status of the Fiscal Year 1991 budget at the next joint meeting on February 12.
- Persian Gulf Conflict - To Capt. Wright offering the county's concern and assistance to help relieve some of the pressure at the Naval Air Station as a result of the Persian Gulf conflict.
- St. Mary's County Crab Festival - To the Chairman of the St. Mary's County Crab Festival approving request of Leonardtown Lion's Club to use the Governmental Center grounds on June 8 and 9 to hold the sixth annual crab festival.
- Wicomico Recreation Complex - To Director of Recreation and Parks, John Baggett, approving by-laws for the the Wicomico Recreation Complex which are in compliance with Resolution No.88-03.
- Revisions to By-Laws - To Chairmen of following boards and committees advising that revisions have been made to the membership section of by-laws to indicate that members can serve no more than two consecutive terms: Adult Public Guardianship Review Board, Commission on Aging, Commission for Women, Electrical Examiners Board, Marcey House Board, Nursing Center Board, Planning Commission.

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

RESOLUTION NO. 91-02

MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Present: Joseph Mitchell, Director

Mr. Mitchell appeared before the Commissioners to advise that the Maryland Department of Housing and Community Development has received a request from the Tri-County Community Development Corporation for financing of 15 units at Chancellor's Village. Mr. Mitchell stated that the Department's regulations require that all developments that it finances be approved by the local governing body.

Therefore, Mr. Mitchell presented Resolution No. 91-02 wherein the Board of County Commissioners endorse the construction of this project.

After discussion, Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and sign Resolution No. 91-02 endorsing the construction of Chancellor's Village. Motion carried.

SOUTHERN MARYLAND REGIONAL FARMERS' MARKET

Present: Allen Swann, President
Gary Hodge, Executive Director, Tri-County Council
Jim Hansen, Cooperative Extension Service
Donna Sasscer, Secretary/Treasurer
Bruce Bagley
James Beaven

Mr. Swann stated that the purpose of this meeting was to request the County's continued support in the Southern Maryland Farmers Market. He stated that the purpose of the market when it was set up two years ago was to promote crop diversification and supplement farm enterprises, and has now become an important element to Southern Maryland agriculture. Mr. Swann pointed out that although the market has proven to be successful and revenues have increased, assistance from the five Southern Maryland counties in the amount of \$5,000 each is being requested in order to set up for next year.

During his presentation Mr. Swann noted that the key to the success of this program was the assistance from the Southern Maryland counties, University of Maryland Cooperative Extension Service, Maryland Department of Agriculture, Governor's Task Force on Southern Maryland Economic Development and the Tri-County Council for Southern Maryland.

In conclusion it was the consensus of the Commissioners to fund the farmers market, but indicated that it would be an item for discussion during the development of the Fiscal Year 1992 budget.

2020 GROWTH PLAN

Present: Gary Hodge, Tri-County Council

Mr. Hodge stated that Tri-County Council is making arrangements for a regional meeting on the evening of February 14 in order to receive input and answer questions relative to the 2020 Program. He will be providing additional information as plans are developed.

MEDEVAC

Mr. Hodge stated that the Southern Maryland Delegation will be meeting with the Lieutenant Governor, who is the head of the Helicopter Advisory Committee to evaluate comments made regarding maintaining service, ultimately establishing a permanent base, and a new helicopter for Southern Maryland.

FISCAL YEAR 1986 COMMUNITY DEVELOPMENT BLOCK GRANT - AMENDMENT APPLICATION

Present: Joseph Mitchell, Director, Economic & Community Development

Mr. Mitchell presented the referenced revised 1986 Community Development Block Grant application to be submitted to the U. S. Department of Housing and Urban Development. He stated that program income from the repayment of a FY '83 revolving "Loan to Landlords" for Patuxent Park West and a revision to the FY '86 funding categories will allow the Community Development Corporation to re-establish a Revolving Loan Fund for Landlord. These funds would be used for three affordable housing projects at Callaway, Lexington Park, and Tin Top Hill to construct affordable housing units to serve low and moderate income households.

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

OFFICE ON AGING
ENERGY CONSERVATION GRANT

Present: Gene Carter, Director

Mr. Carter appeared before the Commissioners to present a grant for energy saving changes at two Office on Aging sites. Mr. Carter stated that each site received an "Energy Audit" in 1990 and opportunities were identified. Funds have been made available from the Energy Overcharge Restitution Trust Fund; no county funds are involved. The grant will provide energy saving changes at the Oakley Hall site - \$700; and St. George's Island - \$550 for burners and thermostats.

During his presentation, Mr. Carter suggested that the funds be presented to the site owners at a County Commissioners' meeting when money is received from the State.

After discussion, Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Energy Conservation Grant Application. Motion carried.

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director

1) PROJECT STATUS REPORT

Mr. Ichniowski presented and reviewed a Project Status Report as of December 31, 1990 which included: Engineering, Highways, Marine, Solid Waste, and Development projects.

During discussion Commissioner Loffler requested that the Commissioners receive a status report on the Southern Maryland Wood Treating Plant. Mr. Ichniowski stated that he would coordinate such a meeting with Director, Environmental Health, Tom Russell.

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

2) PROPOSED GAS TAX INCREASE

Mr. Ichniowski presented draft correspondence to the St. Mary's County Legislative Delegation indicating the State's anticipated use of revenues from the proposed gas tax increase. The letter reminds the legislators of those projects that have been a priority to St. Mary's County.

The Commissioners agreed to sign and forward the letter.

3) ST. MARY'S COUNTY RAILROAD RIGHT-OF-WAY

Mr. Ichniowski presented correspondence addressed to the Charles County Commissioners advising that the Bank of Southern Maryland has requested the use of the St. Mary's County railroad right-of-way in the Hughesville area for the construction of an access from the bank. Prior to the granting of an easement, St. Mary's is requesting Charles County Government to review this request and response whether there are any conflicts.

The Commissioners agreed to sign and forward the letter.

4) THE LEONARDTOWN ARMORY

Mr. Ichniowski presented a Standard State of Maryland Revenue Lease Agreement between the State of Maryland, Military Department and the County Commissioners of St. Mary's County for The Leonardtown Armory located on Route 245, Leonardtown.

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

5) ADDENDUM TO PUBLIC WORKS AGREEMENT
BOYD'S HILL SUBDIVISION

Mr. Ichniowski presented an Addendum to the Public Works Agreement between William Fitzgerald and St. Mary's County Commissioners extending the deadline for completion of roads in Boyd's Hill Subdivisions to June 1, 1991. The Addendum is backed by a Letter of Credit in the amount of \$39,600 with Maryland Bank & Trust Company.

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

6) ROAD RESOLUTION NO. R90-57
CAT CREEK ROAD

Mr. Ichniowski presented the referenced Road Resolution posting Cat Creek Road in the Cat Creek Knolls Subdivision at 25 miles per hour.

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

ADEQUATE PUBLIC FACILITIES

Present: Edward V. Cox, County Administrator
Jon Grimm, Director, Planning and Zoning
Charles Wade, Finance Director
Mary Pat Pope, Administrative Officer

The Commissioners having conducted a public hearing on December 11 on the Adequate Public Facilities requirement of the Zoning Ordinance, the referenced individuals appeared before the Commissioners for discussion.

Mr. Grimm indicated that Section 40.10 of the Zoning Ordinance requires the County to adopt standards to be applied to test adequate public facilities.

Mrs. Pope reported that the State's standards for classroom student/teacher ratio are: Kindergarten - 25 students; Grades 1-5 - 30 students; grades 6-12 - 25 students; however, the state will be reviewing these ratios at a later date.

Mr. Wade distributed financial information indicating best and worst case scenarios regarding the Board of Education Capital Improvement Program.

Mr. Cox distributed two versions of the Resolution on Adequate Public Facilities for the Commissioners' consideration. The Resolutions are identical with the exception of #4 on Page 2. The first document uses the guidelines adopted by the Interagency Committee for School Construction and the second Resolution indicates that elementary schools are rated by local guidelines as follows: 20 students/prekindergarten; 22 students/kindergarten and Grades 1-2; 25 students/Grades 3-5; 10 student/per special education classroom; middle schools and high schools/25 students times a utilization factor of 90%. In the middle/high schools special education classrooms are rated for 12 students and 10 students per resource room.

Mr. Cox pointed out that three decisions are needed by the Commissioners: (1) the calculation of population generation; (2) whether or not to include relocatable classrooms in the computation of capacities; (3) the factors to be used in the rating for capacity.

After discussion Commissioner Bailey moved, seconded by Commissioner Jarboe, to to adopt the first Resolution (which uses the State's Standards). Motion defeated by a vote of two to three.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to adopt and sign the second Resolution using local guidelines. Motion carried with all Commissioners voting in favor; however, Commissioner Bailey stated for the record that although he was in favor of this Resolution, he did not support Item #4 using the local guidelines for classroom capacity.

(Commissioner Bailey left the meeting - 12:10 p.m.)

TRI-COUNTY COUNCIL'S TASK FORCE ON REGIONAL DEVELOPMENT PLAN

Commissioner Thompson distributed a memorandum indicating that the referenced task force will be presenting recommendations to the Tri-County Council Executive Board at the February meeting. One of the elements in development the regional development plan is the appointment of a contact person in each county. Therefore, the County Administrator presented correspondence addressed to the Executive Director of Tri-County Council designating Jon Grimm, Director of the Office of Planning and Zoning, as the point of contact for St. Mary's County.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to sign and forward the letter designating Jon Grimm as the point of contact. Commissioners Thompson and Loffler voted in favor and Commissioners Jarboe and Lancaster voted against. Motion defeated by a two-to-two vote.

EXECUTIVE SESSION

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

Commissioner Jarboe moved to meet in Executive Session to discuss a matter of litigation. Motion carried. The Session was held from 12:10 p.m. to 12:50 p.m.

OFFICE OF PLANNING AND ZONING

Present: Jon Grimm, Director,
Peggy Childs, Recording Secretary

Also present: Larry Petty, Director, Metropolitan Commission
Tom Russell, Director, Environmental Health.

1) PUBLIC HEARING
SPEC #84-0015 - CEDAR COVE MARINA
SEWER CATEGORY CHANGE

Requesting change in Sewer Classification from S-6 to S-3D for this property containing 333 acres, zoned CM (LDA Overlay), located in the 2nd Election District north of Maryland Route 249, west of Andover Road; Tax Map 61, Block 10, Parcel 100.

Owner: Maryland Bank & Trust Company
Applicant: Cedar Cove Marina

Mr. Grimm stated this Legal Ad was published in The Enterprise on December 26th and January 2, 1991; a Staff Report was prepared by staff dated 1/17/91 but does not contain Board of Appeals minutes of their January 10, 1991 public hearing on a separate application for a boatel operation, which do not formally impact this category change request. Those minutes are being reproduced and will subsequently be provided to the Commissioners.

Also included in the Staff Report is a letter from Steve King, of MetComm, dated 1/10/91, regarding the seven EDU allocations and flow projections for the boat slips. Mr. Grimm said it is staff's understanding that no increase in intensity will be permitted without further allocation of EDUs. Staff and the Planning Commission recommend approval of the category change.

Commissioner Jarboe asked about the two "floating homes." Mr. Grimm replied, under the 1974 and 1990 Zoning Ordinances floating homes were prohibited, however pre-existing units were given until December 9, 1991 to be removed.

The hearing was opened to public comment.

George Springer, adjacent property owner, stated he is opposed to the request. He said all of them down there are very concerned that the 7 EDUs will be manipulated to be used for the proposed boatel.

MetComm Director Larry Petty responded that the Consent Agreement executed several years ago which restricts access to the force main connecting Piney Point to Lexington Park contains language that describes who is allowed to connect to the force main once it breaks the service area, and one of the conditions of that language is that the facilities to be served by the force main must be existing facilities whose septic system is in a state of failure with no other means to be corrected other than the force main. If a mound system, for instance, could be installed to correct the failing septic system, you would not have the right to connect to the system. From that perspective the answer is clear that the property owner would not be allowed to build any new facilities which require sewer services, they would not be approved by MetComm.

That has nothing to do with the changing of the category, which is almost a paper exercise since the applicant has been given the limited number of EDUs; the confusion arises as to whether a boatel generates sewage flow. Currently, Mr. Petty said, the State Division which handles public sewer systems, and whose criteria MetCom follows for establishing generation of sewage flows from various kinds of facilities, doesn't recognize a boatel; if there are no sewage facilities involved you have dry storage of boats. If the applicant had wanted to store the same number of boats horizontally, in cradles, he said no one would have even blinked. Since they have no criteria which says a boatel generates sewage flow, he would have to conclude that it doesn't; however the issue gets a little cloudy because another department of the State does recognize sewage flow from boatels; therein lies the dilemma.

Commissioner Jarboe said the agreement for the seven EDUs states if they wanted to expand some other facilities there they could use some portions of the seven EDUs, but the original use would have to be abandoned. Mr. Petty replied that is true if they didn't change the use - one of the other conditions of the agreement is that you cannot change the character of the use, but you can't eliminate one of the bungalows and build a marine repair shop, or something like that, the character of the flow and the usage has to remain the same, so the applicant doesn't have a number that he can trade and use as he sees fit within those seven EDUs. Commissioner Jarboe said S-6 to S-3, as he understands it, means the applicant could use those numbers toward new construction. Mr. Petty replied no, it has nothing to do with whether it is new construction or the sewerage of existing facilities, it doesn't make that distinction - it just says you are going to get public sewer, it doesn't imply anything new to be built, it's just the changing of the service character.

Commissioner Loffler asked Mr. Russell to comment from a Health Department standpoint. Mr. Russell said there is a fairly lengthy history to this - the origination of the 66 boat slips that were proposed down there was a trade-off for existing bungalows, and this pre-dated

anything we are talking about here in terms of public sewer for a boatel. The Health Department's stance, in conjunction with the Maryland Department of the Environment, is that they are in favor of the seven EDUs for everything that exists there, but he is here today because they have conceptually a problem with the boatel, because, whether it's dry storage or wet storage, you have an increase in the number of boats, therefore you have an increase in the number of people.

To further muddy the picture, Mr. Russell said, MDE has guidelines they use for on-site sewage disposal, and he said he wanted to stress that because we are really talking apples and oranges. When they do a calculation for a system design they figure the highest flow figure they can, a "peak" flow that the on-site system can accommodate, so they are somewhat different. At the time this was done the guidelines said 15 gallons per day for a boat slip, but at that time there were no guidelines for boatel, a relatively new animal on the scene. Since then, as of October 1989, they now have guidelines that not only more clearly address boats because they take into account the size of the boat slip and therefore the size of the boat and potential usage, but they also assign a flow figure to boatels of 5 gallons per day per dry storage slip, so they have something that they would actually use as an on-site figure that they would apply as part of their design criteria.

He said he is not telling MetComm how to run their business, but from their official standpoint they would view it as an increase of the usage of the system, and that would be the stance not only of the Health Department but of the Maryland Department of the Environment.

Charles Carruth, who lives east of the marina, asked whether the 2 houseboats were used in the 7 EDU criteria. Commissioner Loffler replied that they were not. Mr. Carruth said he agrees wholeheartedly with Mr. Russell, because no matter what you do, once applicant gets the sewer line running into this project we won't be able to police it 24 hours a day, so if we don't stop it, or control it, or put strict stipulations on it now, how do we control it?

Peter Egeli, whose family farm is on the other side of Herring Creek, said the purpose of all the interest in sewage treatment here in the County is to clean up the waters, and where this marina is located is at the headwaters of a very fragile creek, and the addition of 66 boats coming and going in that creek is going to drastically change it if not completely destroy what character it has left. Mr. Egeli said he has some graphics and a map of Herring Creek as it exists today if the Commissioners wanted to see it and he has prepared a statement, the focus of which is that the creek simply cannot take that many boats at the headwaters. He said he understands the meeting is strictly to address the 7 EDUs and their use, but he addressing the effect of granting them.

Mr. Springer asked, having heard both sides, which argument are the Commissioners going to use to make their decision - Mr. Russell's or MetComm's. Commissioner Loffler said the Commissioners are just gathering information with which to make their decision but it is all relative to the type of sewer that's there. If there is no EDUs in use it falls under Mr. Russell's (State) guidelines; if there is sewer in use it would fall under MetComm's (County); but that doesn't mean the Commissioners cannot direct that there be standards set up for the use of those sewer facilities.

Oran Wilkerson asked how permanent are the restrictions on the flow and, if those restrictions are applied, will they be attached to the land. He said the reason he asks is that the applicant has in view erecting a boatel or maybe two buildings that would serve as boatels. That would envision that, at some point in time, he is going to have to abandon all of the buildings presently there to accommodate the new

construction he proposes, and they don't want to have to go through this hassle again with either the next owner or with this applicant if the restrictions are altered, depending on how effective his argument is for that.

Commissioner Loffler pointed out if you are talking about cleaning up the waters from a seven EDU problem, if you eliminate that problem and then use the EDUs in another direction you still haven't solved the problem; we have some unclear information here that we're trying to focus attention on, and that is if and when there is new construction and it affects EDUs, would it be acceptable for these EDUs to be used.

Mr. Wilkerson said the thrust of his question is, "Is this agreement that limits him to 7 EDUs written in stone?" And where does it say in writing that it is written in stone. In reply, Mr. Petty quoted the conditions of the Consent Agreement:

"The sewer service for structures served by on-site disposal systems outside the revised service area (and that's outside of Piney Point, Mr. Petty said) will be permitted only if sewer service to that structure meets the following criteria:

- (a) It is necessary to alleviate a public health risk caused by failing on-site systems that are deemed uncorrectable by the administration; and
- (b) It will not significantly alter or change the existing use and character of the property, including sewage flows and contributions thereof; the amount of sewer service shall correspond to the amount of flow that had been treated by the on-site disposal system if sewer service is provided; and it is mutually determined and agreed by the parties to this agreement that neither construction of the facilities or the facilities themselves will cause or pose any adverse effect on the 100 Year Flood Plain."

So, Mr. Petty said, the seven EDUs given to the applicant is not approvable that that he can, at his discretion, trade for other uses that he would like to put on the property. That is not the case.

However, Commissioner Loffler said, in our earlier discussions we had a facility that was being used as a bathhouse for the existing marina, so a new bathhouse can be built that does that function. Mr. Petty agreed; also, he said, if he built a facility that did not require sewer service, then certainly he would be allowed to entertain new construction providing he meets the rest of the permit requirements to do it. Mr. Loffler said he could also replace an old residential unit with a new one.

Mr. Petty also agreed to that, but said Mr. Russell (the State) has some criteria that says you can't take a one-bedroom bungalow and build a five-bedroom mansion, because there is an ultimate total flow that can come off the site. All of this implies some precision in the sewage business that in fact doesn't exist, he said they have set certain blocks of sewage flow from EDU at 280 gallons a day but that is just a number; some houses generate a lot less and some houses, even with the same number of bedrooms, generate a lot more.

Commissioner Loffler said the flow is based on square footage; if there is a restaurant there, the applicant would be allowed to build an equivalent restaurant to use that same amount of allocation, but not a huge restaurant that would require a lot more sewerage, only that EDU's equivalent. Here again, he said, the big question is whether or not the boatel would be an acceptable unit according to the EDUs that are allocated, and what he has heard from MetComm is that there is no allocation of EDUs for a boatel at the present time; therefore, it is not a considered element with the 7 EDUs. Mr. Petty agreed.

Viki Volk, of The Enterprise, asked if MetComm uses a standard EDU for a house regardless of the size of the house why couldn't an apartment EDU be replaced by a five-bedroom house. Mr. Petty responded because you are limited as to total flow from the site and you cannot change the character of the facility that's generating it; that would be a judgment call by MetComm as to whether a two-bedroom bungalow was the size of a five-bedroom house. The flow restriction is that the applicant is limited to the number of EDUs X 260 gpd as the total flow from the site.

Ms. Volk asked if the EDUs are specifically assigned to buildings or uses. The answer was yes. Then, she asked, if he is no longer making use of the particular facility identified by each of the EDUs, are they simply held in abeyance until that particular use returns - he cannot transfer them? He cannot transfer them, Mr. Petty said, he can't change an apartment EDU to a restaurant. But you have to understand, too, Mr. Petty said, that this is a fairly unique situation.

Jack Witten, of the Potomac River Association, said he was on the Metropolitan Commission at the time at the time the interceptor force main was planned from Piney Point, and the overriding characteristic of the whole project was that it was designed, with one exception, to serve failing septic systems, and the tri-party agreement between EPA, the State and the County was that that rule would not be broken, and if the agreement was abrogated and the force main was used to support new development and new expansion, the responsibility of paying for the force main reverted to the County; Mr. Witten asked if that situation still pertains or if the agreement has been modified. It has not. Then it cannot be used to support increased development, Mr. Witten said, and it seems to him there can be no additional sewage capacity allocated to this development unless the County wants to pay for the force main.

The same kind of judgment call applies to what is the relationship between a parking space in a boatel and a slip in terms of sewage volume generation, and despite the fact that there is no number in a book somewhere, Mr. Witten said, there has to be a way of providing for treatment of the sewage created by the increased population of boats, no matter where you put them. In 1989, he said, the General Assembly passed a law that after July 1, 1989 you may not construct additional slips at an existing marina unless MDE is satisfied that sufficient sewage capacity exists to satisfy the requirement of the new volume of boats. You cannot live with the spirit of that law, he said, by saying that vertical slips aren't slips.

Two years ago or more, Mr. Witten said, during the Boatel California issue, Lois Watson Shuffe provided County Government with a complete stack of ordinances and regulations which apply to boatels and made a recommendation that, in the drafting of the new Ordinance, some attention be paid to them. As we can see, he said, none was, so this problem has been a long time being generated and marina development in the County is in a terrible state of disarray for many reasons. This does not mean that there are not appropriate places for marinas and that we don't need them and should provide for them as a major component of our economic development plans, but you can't do that without a means of disciplining the process and putting them not at the heads of creeks, but at the mouths of creeks, as other jurisdictions do, and considering the related infrastructures and the places where they might really be suitable in terms of infrastructure and public use. As the General Assembly law applies and the Commissioners need to define, a boatel storage slot and a slip is one and the same. Having done that, it will put the right measure on the sewage impact of this proposal.

Pat O'Donnell, member of the Potomac River Association and a resident of Valley Lee, stated at the January 10, 1991 public hearing before the Board of Appeals the proponents of the boatel made it very clear that part of the rationale for approving it was they had the sewage, so he said he hopes we can separate the two issues. Mr.

O'Donnell said Herring Creek is the heart of the 2nd District, and is the one creek that has survived and has the best possibility of being returned to shellfish productivity, and offered correspondence to then Delegate Roy Dyson/DNR Secretary Coulter requesting investigation regarding the reopening of Herring Creek after Piney Point School was connected to the sewer. They learned, he said, that the pollution continued because of non-point pollution, and non-point pollution will continue when such things as boatels are erected at the head of the creek.

Mr. O'Donnell said the Commissioners made an agreement with the people of St. George's Island that the sewer would not lead to a density which would offset the improvements of the sewage system. The same thing applies to Herring Creek, he said, 118 people have signed a petition against the boatel and they deserve at least the same consideration that was given to St. George's Island. This is a quality petition, he said, it is not padded, he and Commissioner Jarboe were not allowed to sign it although they live only 2 miles away as the crow flies - it is signed by the people who live on the creek who want to see the creek come back someday, and it won't come back if you allow the sewer expansion.

Mr. O'Donnell asked the Commissioners to examine the file - an extensive report was done by Richard Klein which proved conclusively to our planning office that the impact of the boatel on Herring Creek was unacceptable. Because of the horrendous traffic on the head of the creek, he said, the creek will die.

Viki Volk stated she understands the Board of Appeals discussion about the boatel is not part of this decision. Whose function is it, she said, to make known to the Board of Appeals that these EDUs are not available to the boatel, because there were statements at that hearing these EDUs were to be used for the boatel. Mr. Grimm said he already has a note to that effect, to make that clarification for the record.

Commissioner Loffler said this is the first time he has heard that MetComm does not have guidelines for boatels and he thinks we've got a situation that needs to be speeded up. Mr. Witten asked whether an environmental review has been done; Mr. Grimm one was done for the boatel, but not for the category change. Mr. Witten said two months ago they had a discussion with the Governor in which he said we have to get away from approving waterfront projects incrementally, because each permit that is issued gives the applicant standing and room for argument for the next one; we need to review all the permits as a system, so you can see all at one time what is being proposed, and asked the Commissioners to keep this in the back of their minds for future revisions to the Ordinance.

Mr. Springer submitted for the record the petition signed by the 118 residents of Herring Creek opposing the boatel. Commissioner Jarboe questioned the description of the November 26, 1990 Planning Commission which states the category change relates to the construction of the two boatel buildings. Mr. Grimm replied he would check into it, but it should not contain that language. Mr. Jarboe asked Mr. Petty why we have to change the category to S-3D if it isn't related to any new buildings and why, if a change allows hookup to the sewer system, it wasn't done when the sewer line was put in. Mr. Petty replied everybody along the sewer line can request a category change, but it is not usually done until a change is actually anticipated. The numeral is time-related, Mr. Petty said, 6 says we're going to do it in ten years, and the D means the developer is going to do it, and not MetComm, so W-3D or S-3D means the developer is going to make the connection within 2-3 years. W-1 or S-1 means service is already provided.

Mr. Wilkerson said they are concerned with possible future development, and asked if it is fair to ask, should the Commissioners decide to change the sewer category, if they could attach as a part of

that change the limitations which have been put on the property, so that there wouldn't be changes in allocations in the future for that particular piece of property or any subdivision of it. Commissioner Loffler stated he thought the Commissioners could qualify their approval. Mr. Springer asked if category S-1A wouldn't be more applicable to make sure it didn't go with the boatel. Commissioner Loffler said he thought the Commissioners could do the same thing by the way they word the approval.

Commissioner Loffler closed the public hearing, stating he thinks it is imperative that we somehow direct MetComm on the issue of boatels that, if there is any question as to whether or not they generate a flow we need to clarify that, so if the Commissioners need more information it would be appropriate to discuss it now, because he would like to see both issues answered at the same time. He said he personally feels they definitely generate sewage flow and that must be a part of the consideration, whether they be through a septic system or EDUs. Mr. Loffler said he doesn't see any change in the neighborhood down there, so if anyone feels any other way those issues should come forward during the 10 day period prior to decision.

This closed the public hearing. Commissioner Loffler announced the record would be held open for 10 days for written comment, with decision scheduled in two weeks.

**2) SPEC #85-0694 - LAUREL RIDGE
WATER CATEGORY CHANGE**

Requesting change in water classification from W-6 to W-1 for Sections 1, 2 & 3 and change from W-6 to W-3 for Section 4. The property contains 333 acres, is zoned RPD, and is located in the 5th Election District on the south side of Golden Beach Road, approximately 1.5 miles west of All Faith Plains Road; Tax Map 5, Block 2, Psrcels 11 & 33.

Owner/Applicant: Swarey Builders, Inc.

Also present: Robert Erickson, Swarey Builders, Inc.

Mr. Grimm advised this Legal Ad was published in The Enterprise on December 26th and January 5, 1991. We have essentially a change to our maps for Sections 1, 2 & 3 - they have not been properly shown on our maps in the past although the subdivision has been built out. Staff needs to make those corrections as well bring on Section 4 for the purposes of design and construction of water facilities as well as the subdivision. This is a joint request by staff and the applicant to bring the maps up to date.

In the past there has been a breakdown between MetComm, OPZ and the State in making sure that the actual mapping changes get made that the State has to review in order to approve the construction plans. Staff is working now with MetComm to bring to the Commissioners an updated set of maps to comprehensively correct past errors, but this specific request is brought forward because the project is moving on more quickly than the updating of the maps. Staff recommends approval as does the Planning Commission.

Mr. Erickson said they had assumed Sections 1-3 had been changed because they had been approved 3 years ago, so this is just to get all that corrected.

Commissioner Lofler opened the hearing to public comment. No one was present to comment, so this portion of the hearing was closed.

Commissioner Loffler closed the public hearing, stating the record would be held open for 10 days for written comment, following which a decision will be made, in two weeks.

CRIMINAL JUSTICE MEETING

The Commissioners attended the Criminal Justice meeting held at 3:30 p.m. in the State Office Building Public Meeting Room.

7:00 P.M.

PUBLIC INFORMATIONAL MEETING

PROPOSED SITE - COMMUNITY COLLEGE AT ST. MARY'S

Present: Dan Ichniowski, Director, Public Works
Members of Community College Advisory Board
John Sine, President, Charles County Community College
Jim Lorenzi, Lorenzi, Dodds and Gunnill
Interested Citizens

Mr. Ichniowski reviewed the history of the Charles County Community College at St. Mary's and discussed the proposed site on Indian Bridge Road and the results of a feasibility study. The site is 1.1 miles from Route 4 (St. Andrews Church Road) and across from Maple Run Subdivision. Cost estimate based on current plans is \$6.4 Million. He stated that percolation tests need to be taken and review by Department of Natural Resources is also needed. Mr. Ichniowski explained that if the property is transferred to the County the next step will be the development of a master plan for educational requirements and facility requirements.

Mr. Ichniowski pointed out that the project will have to go through a public hearing process, the Board of Appeals and Planning Commission before construction can begin.

The meeting was opened to questions and comments from the audience:

Mike Shoemaker - Inquired as to possibility of public water/sewer to the college and then to the homes at Maple Run. Commissioner Loffler responded that costs would make it prohibitive.

Bob Young - Because of trend for overdevelopment, the site should remain rural.

Laverne Schaefer - Moved to Maple Run because of "peace and quiet"

Joe and Dorothy Sickle - Live adjacent to site and feel that college will disrupt peaceful way of life. Suggested that the college be located at current location or closer to Rt. 235.

Questioned whether the state would allow the road to be widened in the historic area of the Old Mill. Mr. Ichniowski advised that that portion of the road is a state road.

Questioned ability and safety of on-site sewage system in the area.

Questioned when County would know whether this is a viable site. Mr. Ichniowski responded that the percolation tests will be conducted in February.

John Collich (Jackson Realty) - Offered a parcel of land for the County near the intersection of Md. Rte. 235 and Route 4 behind Western Steer for \$2.5 Million (\$125,000/acre).

Leonard Walch - Moved to Maple Run because of "peace and quiet."

Joe Meeks - Stated Indian Bridge Road needs to be improved before college is constructed.

Kathy Vetter - Traffic light is needed at intersection of Indian Bridge Road and Rt. 5. A full traffic light is needed at Great Mills and Route 5.

Suggested that State Highway Administration and Department of Natural Resources be invited to future meetings on the college.

Walter Szlendak - The proposed site is a flood area. College should be located on Rt. 235.

Joe Slater, President, Chamber of Commerce - Suggested that the County have traffic and demographic studies and needs assessment before proceeding.

Parran Bean - Concerned about direction of growth of college because of proximity to wetlands and its impact. Mr. Ichniowski pointed out the wetlands areas of the site and stated that the building and parking areas will not impact wetlands.

Joe Daley, Joe Daley Realty - Offered a 50-acre site off of Route 4 adjacent to Myrtle Point Development on the Patuxent at a cost of \$700,000.

John Sine - Explained that other sites were evaluated and noted the central location of this site. He pointed out that of the 17 community colleges around the state, none have attracted other businesses.

Valerie Johnson - Suggested that the County make the location of the college more appealing to the residents of Maple Run by improving roads and offering water/sewer hookups.

Chris Wilson - Noted that community colleges tend to enhance the area. He stated that this site would serve the community for many years and suggested that if anyone has concerns about areas surrounding the community college should visit the Charles County site in LaPlata.

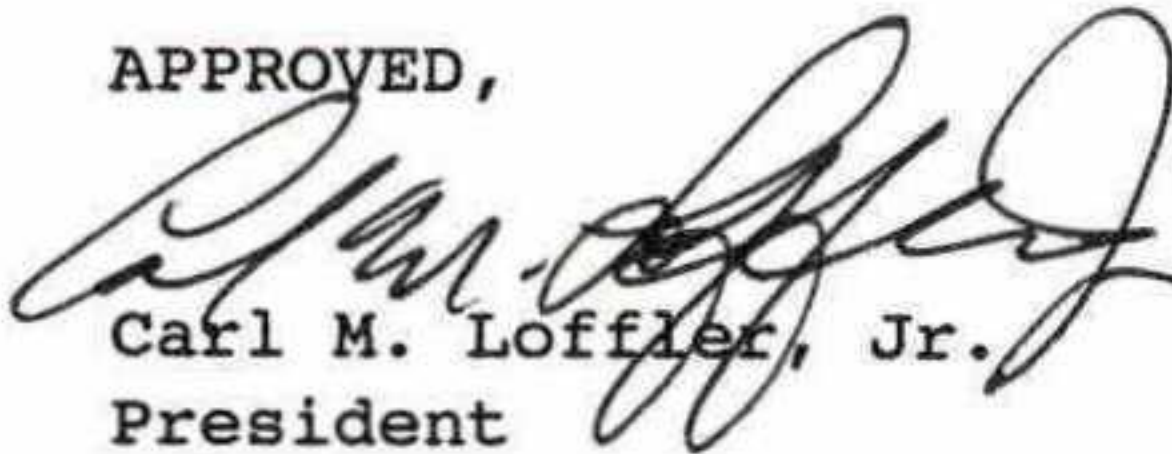
James M. Marsh - Questioned who would be controlling area around college.

Doug Ritchie - Stated there is a need for a community college. Suggested that the wealthy people in the county contribute towards its construction and have the various buildings named after them.

John Cole - Questioned how the college construction is financed. Commissioner Loffler advised that it was a 50-50 project with the County and State.

ADJOURNMENT

APPROVED,


Carl M. Loffler, Jr.
President