

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS**

March 23, 1993

Present: 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

(Commissioner Jarboe was not present at the beginning of the meeting.)

CALL TO ORDER

The meeting was called to order at 9:00 a.m.

APPROVAL OF MINUTES

Commissioner Lancaster moved, seconded by Commissioner Bailey, to approve the minutes of the Commissioners' meeting of Tuesday, March 16, 1993 and the Special Meeting of Thursday, March 18, 1993. Motion carried.

APPROVAL OF BILLS

Commissioner Thompson moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the Check Register as presented. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) Office on Aging - Grants

Also Present: Gene Carter, Director, OOA

Mr. Carter presented the following grants for the Commissioners' review and consideration:

- o Title III - Notification of Grant Award (Revised) for the period 10/11/92 - 9/30/93. Total Award-\$192,382
- o Community Transportation Association of America USDA Rural Transportation Short Term Technical Assistance Program Grant Application which provides assistance to the County in looking at the county's transportation system and scheduling. No funds are involved.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Title III NGA and the Technical Assistance Grant Application as presented. Motion carried.

2) Federal Government Travel Rates/Accommodations Tax

The County Administrator presented information relative to the new government rates for per diem (lodging, meals and incidentals) pointing out that the per diem rate is lower in St. Mary's than in Calvert. Mr. Cox distributed a copy of a page from a handbook giving motel rates that a federal employee would use when requesting travel.

The changes in the per diem rate have put St. Mary's County at a disadvantage, and County Administrator Cox advised that he has been requested by Mr. Millison (Belvedere) and Mr. Waring (Patuxent Inn) that the County rescind the Accommodations Tax for one year in order to make the rates more equitable between the two counties. He stated that both individuals would like to come before the Commissioners to discuss this request.

The Commissioners gave their concurrence for Mr. Millison and Mr. Waring to come before the Board.

3) Formal Grievance Appeal - Munsterteiger

The County Administrator advised that the referenced Grievance Appeal has gone through the administrative process, the Grievance Board rendered a decision, and the grievant appealed to the Board of County Commissioners. The Commissioners had discussed this matter in Executive Session and based on the Commissioners' direction, the County Administrator presented correspondence addressed to Mr. Munsterteiger stating that the Commissioners uphold the findings of the Formal Grievance Review Board and that no further discussion would be necessary.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to sign and forward the letter as presented. Commissioner Bailey voted against the motion. Motion carried three to one.

4) Correspondence

The County Administrator presented the following correspondence for the Commissioners' review and consideration:

Land Planning and Land Management Programs

Addressed to the Chairman of the Economic Development Commission requesting assistance in providing a comprehensive review of county government's land planning and land management programs. The purpose of the request is the identification of areas of concern and recommendations for improvement.

Beechwood Subdivision - Storm Drainage

Addressed to Mary Roland advising that the county has reviewed the storm drainage situation and feels the Department of Public Works has taken all appropriate measures to address the problem.

Commissioner Lancaster moved, seconded by Commissioner Thompson, to sign and forward the referenced letters as presented. Motion carried.

5) Responses - Personnel Manual Comments

The County Administrator presented correspondence addressed to county employees in response to letters commenting on the proposed changes to the Personnel Manual.

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

6) Council on Children and Youth - By-Laws Amendments

The County Administrator presented the revised by-laws for the Council on Children and Youth noting that the changes are underlined. The Commissioners indicated disagreement with the requirement for prospective members to attend three meetings.

The County Administrator will request the Council to eliminate the requirement (Page 2, Section 2) and re-present it to the Board with a letter for the Commissioners' approval.

(Commissioner Jarboe entered the meeting at 9:35 a.m.)

7) Leonardtown High School - Gym Floor Replacement

The County Administrator presented correspondence addressed to The Athletic Boosters Club responding to a March 8 letter regarding the gym floor and bleachers at the Leonardtown High School. The letter indicates that the Board of Education is researching the floor replacement and determining costs.

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

8) Letters of Gratitude

The County Administrator presented correspondence expressing appreciation to Chairpersons for the presentation of Annual Reports.

The Commissioners gave their concurrence.

**9) Response to Marvin C. Franzen
Lot 500-1, Town Creek Manor**

The County Administrator presented correspondence addressed to Marvin C. Franzen concurring with the County Administrator's letter of March 3 relative to the construction of an apartment on Lot 500-1, Town Creek Manor.

Commissioner Lancaster moved, seconded by Commissioner Thompson, to sign and forward the letter as presented. Motion carried.

**10) Budget Amendment No. 93-43
Public Works**

The County Administrator presented the referenced Budget Amendment recommended for approval by the Director of Finance with the following justification: To provide additional funds needed for office space study (\$32,000).

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

Commissioner Loffler requested that after the consultant is selected to do the study the Commissioners have a preliminary session to look at all options.

11) Higher Education Facility

The County Administrator advised that he was going to Annapolis to testify before the House of Delegates Appropriations Committee later in the day in support of the Southern Maryland Higher Education Facility.

Commissioner Loffler suggested that he carry the message that these are delicate times with reference to base closures and that Maryland should show its appreciation and interest in the consolidation at Patuxent River and that we should be ready to meet the needs of those individuals coming to this area.

(County Administrator Ed Cox left the meeting at 9:50 a.m.)

**ANNUAL REPORT
RECYCLING COMMITTEE**

Present: Joe Kuhna, Chairman
Dudley Lindsley
George Erichson, Deputy Director, DPW

The referenced individuals appeared before the Commissioners to present the 1992 Annual Report of the Recycling Committee. Mr. Kuhna reviewed current collection and recycling

activity (including options for waste disposal, public information efforts, proposed yard waste compost facility, and the Recycling Coordinator position); committee conclusions and recommendations; and final thoughts regarding meeting goals of House Bill 714.

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

SHERIFF'S DEPARTMENT DRUG ENFORCEMENT GRANTS

Present: Capt. Greg Capado
Barbara Dotson, Fiscal Specialist
Charles Wade, Director of Finance

The referenced representatives of the Sheriff's Department appeared before the Commissioners to present the Sheriff's Office and Southern Maryland Drug Task Force Drug Enforcement Grants. \$7,983,000 of federal funds has been made available by the State for state and local criminal justice programs related to drug control. The County's program consists of new and continuation grant programs requiring a 25% local match (\$55,983) with 75% federal funding in the amount of \$180,018. The continuing projects include Alcohol Enforcement Project and Street Operations - Administrative Support Project. The new programs are Drug Abuse Resistance Education Program (Elementary) and Drug Abuse Resistance Education Program (High School).

During discussion Director of Finance Wade indicated that the County's share of funding has been included in the Fiscal Year 1994 Budget.

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

FISCAL YEAR 1993 BUDGET DISCUSSION

Present: Charles Wade, Director of Finance
Marty Jones, Budget Analyst

As a follow up to the March 18 Budget Work Session, Mr. Wade distributed a listing setting forth Source of Funds Available and Recommended use. The Commissioners reviewed the list and made recommendations to delete certain items from the "Recommended Use" list. In addition Mr. Wade provided information from the Maryland Association of Counties setting forth state reductions and increases.

After discussion Commissioner Jarboe moved, seconded by Commissioner Bailey, to reinstate the \$17,540 to the Tri-County Council for the Agriculture position. Motion carried four to one with Commissioner Loffler voting against.

Commissioner Bailey requested a report as to how the Council spent the \$17,540 in the Fiscal Year 1993 Budget in that the position had not been filled.

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to include funding in the Fiscal Year 1994 Budget for Tri-County Residential Alternatives for Youth in the amount of \$30,000. Motion carried four to one with Commissioner Loffler voting against.

Later in the meeting Mr. Wade returned before the Board with revised listings for: Source of Funds Available; Uses; Board of Education - Employee Costs; three alternative funding proposals; and list of possible deletions.

The Commissioners reviewed the lists and requested Mr. Wade to prepare the Fiscal Year 1994 Recommended Budget including the following: Reduce Commissioners' Reserve by \$100,000 (leaving \$50,000 balance); reduce Public Works building improvement items by \$100,000; reduce funding for the following by one-half (Developmental Center, Tri-County Youth Services, St. Mary's ARC) and to reduce Social Services by \$50,000.

ELECTRICAL CODE ORDINANCE

Present: Jon Grimm, Director, Planning and Zoning

Mr. Grimm appeared before the Commissioners to address Ordinance No. 93-03 - Electrical Permits and Inspections and comments from the public who attended a March 1 meeting held by one of the Electrical Board members.

Mr. Grimm advised that members of his staff met with the Chair of the Electrical Examiners and MDIA and based on that meeting presented a memorandum dated March 9 in which he set forth six options in priority order to address the concerns of the electricians.

Mr. Grimm recommended amending Ordinance No. 93-03 to delete Sections 1 (Building Permit Required) and 5 (Zoning and Building Permit Not Required). He stated that this would eliminate the confusing language in the Ordinance and broaden the scope of electrical work that may be performed inside a principle structure or dwelling without a permit, including minor repairs such as replacement of a water heater. He pointed out that he did not support rescinding the Ordinance.

The Commissioners indicated their support of Option 1 as referenced and Option 3 (that MDIA provide DPZ with a copy of each electrical inspection application for review and follow up prior to the initiation of work. If the work performed is not consistent with other applicable county regulations, the county will be in the position of being able to stop the job prior to work commencing.)

After reviewing the March 9 memorandum containing the six options, Commissioner Lancaster moved, seconded by Commissioner Thompson to instruct the Director of Planning and Zoning to prepare correspondence addressed to the Board of Electrical Examiners requesting recommendations relative to Options No. 1 and 3 as contained in Mr. Grimm's March 9 memorandum and to schedule a public hearing for the purpose of amending Ordinance No. 93-03. Motion carried.

Later in the meeting Mr. Grim presented correspondence addressed to the Electrical Examiners Board as requested by the Commissioners.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to sign and forward the letter as presented. Motion carried.

EXECUTIVE SESSION

Commissioner Bailey moved, seconded by Commissioner Thompson, to meet in Executive Sessions to discuss matters of Property Acquisition, as provided for in Article 24, Section 4-210(a)11, Property Disposition, as provided for in Article 24, Section 4, 210(a)11, and Personnel, as provided for in Article 24, Section 4, 210(a)1. Motion carried.

Property Acquisition

Present: Commissioner Carl M. Loffler, Jr., President
Commissioner W. Edward Bailey
Commissioner Robert T. Jarboe
Commissioner John G. Lancaster
Commissioner Barbara R. Thompson
Phil Rollins, Director, Recreation and Parks
Mary Pat Pope, Administrative Officer
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)11

Time Held: 11:59 a.m. - 12:18 p.m.

Topic: Property Acquisition

Action Taken: The Commissioners reviewed confidential memorandum from the Director of Recreation and Parks and requested Mr. Rollins to prepare correspondence for the Board's signature.

Property Disposition

Present: Commissioner Carl M. Loffler, Jr., President
Commissioner W. Edward Bailey
Commissioner Robert T. Jarboe
Commissioner John G. Lancaster
Commissioner Barbara R. Thompson
Joseph Densford, County Attorney
Jim Haley, Procurement Officer
Mary Pat Pope, Administrative Officer
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)11

Topic: Property Disposition - Surplus Property

Time Held: 12:18 p.m. - 12:35 p.m.

Action Taken: The Commissioners reviewed the list of surplus property and directed the County Attorney to make arrangements for an "absolute" auction.

**ANNUAL REPORT
PLANNING COMMISSION**

Present: Keith Fairfax, Chairman
Joe Anderson
Shelby Guazzo
Frank Taylor
Jon Grimm, Director, Planning and Zoning

The referenced individuals appeared before the Commissioners to present the 1992 Annual Report of the Planning Commission. Mr. Fairfax reviewed the Executive Summary (citing statistics for development and construction and accomplishments and objectives); Statistical Summary relative to new construction permits, building permits, site plan submissions, and subdivision lots; Land Use; Zoning Map Amendments, Consistency Requirements, 1992 Goals and 1992 accomplishments; and objectives for 1993 (including customer service guides, working toward goal of county-wide permanent addressing system, consideration of employment center zoning, etc.)

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

**ANNUAL REPORT
PLUMBING BOARD**

Present: Joe Mike Weiland, Plumbing Inspector
Jack White, President, Plumbing Board
Jon Grimm, Director, DPZ

The referenced individuals appeared before the Commissioners to present the 1992 Annual Report for the Plumbing Board. Mr. Weiland reviewed the membership, purpose, issuance of licenses and permits, and status of the Natural Gas Ordinance. He advised that a public hearing has been scheduled for April 20 at 3:30 p.m.

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

ANNUAL REPORT BOARD OF APPEALS

Present: Shane Mattingly, Chair
Jon Grimm, Director, DPZ

Mr. Mattingly appeared before the Commissioners to present the 1992 Annual Report of the Board of Appeals. He reviewed the Board's purpose, challenges (variances, critical area program, other zoning administration); and plans for the current year.

Discussion ensued regarding the buffer requirement for the FERST of St. Mary's Landfill, and Mr. Grimm advised that this was a matter of discussion with the Board of Appeals on March 19 and the Planning Commission on March 22. Both boards agreed to uphold the buffer requirement as imposed by the Board of Appeals. Mr. Grimm advised that he will be submitting a report on the discrepancies between the Planning Commission and Board of Appeal's decisions alleged by the Community Preservation Coalition prior to the April public forum.

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

REQUEST FOR EXTENSION OF VESTED RIGHTS

Present: Ann Marum, Director, Chamber of Commerce
George Smith, President, "
John Norris, Governmental Affairs Committee

The referenced individuals appeared before the Commissioners to request consideration to extending the May 1 deadline for vested rights. Mr. Norris indicated that with the realignment of naval bases and relocation to St. Mary's County, the County should be positioned to be viewed in a favorable light in order to accommodate future growth.

Mr. Norris advised that with the last extension to May 1, 1993, some of the projects have moved forward (building permits issued or subdivision plans recorded). The extension would allow time for other projects to move forward which had not progressed because of the unfavorable economy. Mr. Grimm noted that 29 projects were on the list at the time of the last deadline extension and there are 15 - 20 still remaining.

Commissioner Loffler pointed out that there may not be any activity relative to relocation of other naval activities to the County, and a one-year extension may only create the same situation.

Mr. Grimm advised that the Planning Commission discussed this issue at its March 22 meeting and moved to recommend the following:

- (1) The current expiration date of 5/1/93 under Resolution No. 92-21 shall stand;
- (2) The subject vested rights properties shall be handled under a zoning amendment to develop criteria for vested rights, based upon infrastructure investments by the developer, under which each site plan and subdivision approved by the Planning Commission prior to 8/1/91 shall be considered;
- (3) Any project on the DPZ list which meets the 8/1/91 criteria shall be considered for extension of vested rights in accordance with the formula to be developed.

Mr. Grimm noted that if the Commissioners wish to consider an extension or the Planning Commissions' recommendations a public hearing would be required.

Mr. Norris pointed out that he did not agree with the infrastructure investment bases for consideration and offered to work with Planning and Zoning to develop criteria

After discussion the Commissioners agreed to schedule a public hearing to consider the extension and the Planning Commission's recommendation. The hearing was scheduled for April 27 at 3:00 p.m.

**DEPARTMENT OF PLANNING AND ZONING
PUBLIC HEARING
CRITICAL AREA GROWTH ALLOCATION APPLICATIONS**

Present: Jon Grimm, Director, DPZ
Mary Owens, Environmental Planner
Peggy Childs, Recording Secretary.

THIRD ROUND GROWTH ALLOCATION PUBLIC HEARINGS

ISUB #91-0249 - MCGUYRE'S SUBDIVISION
(Single Lot Category)

Requesting a change in overlay zoning classification from RCA to LDA through the use of 1.5 acres of growth allocation to allow a 2-lot subdivision. The property contains 30.88 acres, is zoned RPD (partial RCA Overlay), and is located on the south side of Maryland Route 243, 1,100 ft. east of Bayside Road; Tax Map 39, Block 18, Parcel 127.

Owner/Present: Thomas A. McGuyre
Agent: Nokleby Surveying

Legal Ad published in The Enterprise on 3/3/93 & 3/10/93

#A-1 - Photo of posting of property

#A-2 - Certified Receipts of notification to contiguous property owners

Mr. Grimm advised that this year we have only one application in each of the three categories; i.e., Single Lot, Minor Subdivision, and Design Competition; and this is the application in the Single Lot Category, the smallest of the three. Twenty-six acres of this 31-acre property is within the Critical Area, and this request is to convert 1.5 acres located on Combs Creek at the end of the farm road to create one additional lot. Because of the size of the property in the Critical Area, an additional lot can only be created through the use of growth allocation.

Staff recommends approval with resolution of the outstanding issues identified in the 3/16/93 Staff Report. The Planning Commission held a public hearing and, at their meeting of 2/22/93, also recommended approval with the condition that the outstanding issues be addressed. If the County Commissioners approve the growth allocation request, the changes will be made to the plan and submitted to the County Commissioners prior to the plan being forwarded to the State. This is to avoid having several plan revisions but to ensure that the project meets all requirements before it is sent to the Critical Area Commission.

Applicant has agreed to address the issue of field delineation of wetlands along the creek and prepare stormwater management calculations, and the lot will be reconfigured to ensure that we have buildable area outside of the 100 ft. Buffer and still maintain the maximum lot size of 1.5 acres. During the environmental review, the Critical Area Commission commented that the entire parent parcel should be afforested; however, because we are only creating one lot, staff feels the afforestation requirement should only apply to the lot being created, not to the remaining property, which is an already developed parcel of record.

Mr. McGuyre added the property has been a working farm for at least 30 years, and he has hay and cattle on it; better than 25 acres is under cultivation but the shoreline is wooded. Mr. Grimm stated he has talked with State staff about this and believes the remainder of the parent parcel is a valid exclusion under the County's processing procedures; however the State still may require the afforestation. Commissioner Loffler commented the Commissioners might want to go up to Annapolis and explain our position when this is scheduled before the CAC. Mr. Grimm replied that he is hopeful that an explanation of the process and the set-aside that the County uses across the board will have some credibility with the State.

A 30 ft. R/W will be dedicated to provide access to the parcel.

The Chair opened the hearing to public comment; hearing none, he closed the public comment portion and the public hearing on this application.

ISUB #92-1113 - MAYDEL MANOR, SECTION 3
(Minor Subdivision Category)

Requesting a change in overlay zoning classification from RCA to LDA through the use of 6 acres of growth allocation to allow a 4-lot subdivision. The property contains 84 acres, with 33.98 acres in the Critical Area, is zoned RPD (partial RCA Overlay), and is located on the southeast corner of Cryer Court and Maydel Drive, approximately 900 ft. north of Breton Beach Drive; Tax Map 48, Block 15, Part of Parcel 16.

Owner: The Cryer Company, Inc.
Agent: Howard Consulting, Inc.

Present: Tom Cryer, Applicant
Tom Howard, of HSI

Legal Ad published in The Enterprise on 3/3/93 & 3/10/93

#A-1 - Photo of posting of property
#A-2 - Certified Receipts of notification to contiguous property owners

Mr. Grimm stated this project should be familiar because it was approved in its original form during the First Round of Growth Allocations but was disapproved by the State because the proposal was for 1.5 acre building sites with an accompanying 1.5 acre agricultural lot for each, to meet RPD zoning. The County has entered into litigation with the CAC over this issue and the case is pending; however, Mr. Cryer wishes to move forward and has submitted this second application for four 1.5 acre lots.

The principal issue to be addressed is that the lot must be reconfigured to avoid hydric soils on the site and to provide an expanded 100 ft. Buffer as required by the Critical Area regulations. The Critical Area 1,000 ft. boundary must be delineated on the plat as shown on the official zoning maps; this will also address the 20-acre set-aside requirement. A reforestation planting agreement is required. Staff recommends approval, subject to these conditions. The Planning Commission held a public hearing on 1/25/93 and on 2/22/93 recommended approval, also with the condition that these issues being addressed before sending the project forward to the State.

Mr. Howard noted that the plan has been revised and the lots moved out of the Othello soil. Percs have been approved for the proposed 4 lots, however the remaining property will not perc.

The Chair opened the hearing to public comment; hearing none, he closed the public comment portion and the public hearing on this application.

CDSP #91-1717 - LITTLE CREEK DEVELOPMENT
(Design Competition Category)

Requesting change in overlay zoning classification from RCA to LDA through the use of 8.38 acres of growth allocation to allow 120 condominium units. The property contains 59.3912 acres with 51.87 acres in the Critical Area, is zoned RL (partial RCA Overlay), and is located on the southeast side of Patuxent Boulevard, east of Myrtle Point Road; Tax Map 34, Block 6, Part of Parcel 126.

Commissioner Loffler announced that this public hearing has been continued to March 30, 1993 at applicant's request. Several members of the opposition also expressed a desire for a night meeting. The hearing will be held in the Carter State Office Building, beginning at 7 p.m.

This public hearing was concluded at 2:52 p.m.

MISCELLANEOUS

Mr. Grimm advised that Mary Owens, of DPZ, has been promoted from Permits Coordinator to Environmental Planner, the position recently vacated by Scott Kudlas.

Mr. Kudlas has been nominated for an award from the Governor for his work in the Critical Area while employed by St. Mary's County. The award will be presented on April 7 at the Critical Area Commission meeting in Annapolis. Mr. Grimm acknowledged Mr. Kudlas' contribution to DPZ and to St. Mary's County, stating that he had done a superb job.

**EXECUTIVE SESSION
PERSONNEL**

Present: Commissioner Carl M. Loffler, Jr., President
Commissioner W. Edward Bailey
Commissioner Robert T. Jarboe
Commissioner John G. Lancaster
Commissioner Barbara R. Thompson
Jon Grimm, Chair, Building Authority
Joseph Densford, "
Dan Ichniowski, "
Charles Wade, "
Rose Slade, Chairperson, Nursing Center Board
Wilmer Bowles, "
Jerry Cheseldine, "
Frank Lawrence, "
Ella May Russell, "
Walter Szot, "
George Sparling, Attorney, Nursing Center Board
John Cox, Cox, Long and Askey
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)1

Topic: Personnel - Nursing Center

Time Held: 4:00 p.m. - 5:15 p.m.

Action Taken: Reviewed confidential Interim Report by Cox, Long and Askey and concurred in preparation of appropriate correspondence.

ADJOURNMENT

The meeting adjourned at 5:30 p.m.

Minutes Approved by Board of
County Commissioners on 3/30/93

Judith A. Spalding
Recording Secretary