

**ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS  
JUNE 28, 1994**

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

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

**CALL TO ORDER**

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

**APPROVAL OF MINUTES**

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve the minutes of the Commissioners' meeting of Tuesday, June 21, 1994. Motion carried.

**APPROVAL OF BILLS**

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

**COUNTY ADMINISTRATOR ITEMS**

Present: Edward V. Cox, County Administrator

1) **Grants**

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

**Innovative and Alternative Disposal System Agreement  
Benita Wood Property**

Agreement among Benita Wood, St. Mary's County Health Department, and the Department of Environment for installation of an Innovative and Alternative Sewage Disposal System on Far Cry Road in an amount not to exceed \$4,756.

**Recidivism Reduction**

On behalf of Walden/Sierra, Inc., Governor's Drug and Alcohol Abuse Commission Grant Application for the county's Recidivism Reduction Project the amount of \$7,158

**Grant Award  
Town Watch Community Policing Program**

On behalf of Sheriff's Department from Governor's Drug and Alcohol Abuse Commission receipt of a Grant Award in the amount of \$43,991 for the county's Town Watch Community Policing Program

**Waterway Improvement Grant Application**  
**Cat Creek**

On behalf of the Director of Public Works, Waterway Improvement Grant Application for the Cat Creek entrance channel and jetty project in the amount of \$150,000.

**Grant Award**  
**Southern Maryland Drug Task Force**  
**Alcohol Enforcement Program**

On behalf of the Sheriff's Department, from Governor's Drug and Alcohol Abuse Commission receipt of a Grant Award in the amount of \$36,038 for the Southern Maryland Drug Task Force - Alcohol Enforcement Program.

**Grant Award**  
**High School Drug Abuse Resistance Education Program**

On behalf of the Sheriff's Department, from Governor's Drug and Alcohol Abuse Commission receipt of a Grant Award in the amount of \$35,750 for the High School Drug Abuse Resistance Education (D.A.R.E.) Program.

**Summer of Safety - Violence Prevention Camps**

On behalf of the Alliance for Alcohol Drug Abuse Prevention Grant Application in the amount of \$10,000 for the Summer of Safety - Violence Prevention Camps

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

(Commissioner Loffler entered the meeting - 9:17 a.m.)

2) **Resolutions**  
**Recreation and Parks Board**  
**Commission for Women**

The County Administrator indicated that the Commissioners had requested legislation to transfer the authority for the Commission on Aging, Commission for Women, Human Relations Commission, and Recreation and Parks Board from the legislature to the Board of County Commissioners. The legislation was enacted by the Maryland General Assembly and signed by Governor Schaefer. Therefore, County Administrator Cox presented the following Resolutions:

**Resolution No. 94-11**  
**Recreation and Parks Board**

Transferring authority for the Recreation and Parks Board to the Board of County Commissioners. The Resolution has been reviewed and approved by the Recreation and Parks Board.

**Resolution No. 94-12**  
**Commission for Women**

Transferring authority for the Commission for Women to the Board of County Commissioners. The Commission for Women requested the inclusion of a statement that the Commissioners would budget funds for the Commission. Staff has recommended that this statement not be included in the Resolution as it is a matter than can be handled through the budget process.

Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve and sign Resolution Nos. 94- 11 and 12 transferring the authority for Recreation and Parks Board and the Commission for Women from the Maryland General Assembly to the Board of County Commissioners. Motion carried.

3) **St. Mary's Public Schools  
Request to Expend Fiscal Year 1995**

The County Administrator advised that correspondence dated June 22 was received from Superintendent of Schools requesting authority to begin expending Fiscal Year 1995 funds. The letter states that the Board of Education is in the process of finalizing the FY '95 budget, which should be completed by June 29; however, since the Commissioners will not be meeting until after the beginning of the fiscal year, the Commissioners will not have an opportunity to formally approve the Board of Education's budget by categories.

Therefore, County Administrator Cox presented correspondence addressed to the Board of Education granting authorization to begin expending FY '95 funds, effective July 1, as requested and requesting that the Board provide the Commissioners with its FY '95 budget as soon as possible.

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

4) **Budget Amendment No. 94-108  
Department of Public Works**

The County Administrator presented the referenced budget amendments recommended for approval by the Director of Finance with the following justification: To provide funding for replacement of existing computer workstation (\$1,530).

Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign Budget Amendment No. 94-108 as presented. Motion carried.

5) **Historic District Commission  
Appointments**

Commissioner Bailey moved, seconded by Commissioner Thompson, and motion carried to appoint the following individuals to the Historic District Commission with terms as indicated:

	<u>Terms To Expire</u>
Virginia A. Cox	6/30/97
Audrey C. Pratt	"

6) **Transportation Planning Assistance Grant Agreement**

On behalf of the Department of Planning and Zoning, the County Administrator presented the referenced grant agreement from the Maryland Office of Planning in the amount of \$32,656 to assist with the transportation elements of the County's Comprehensive Plan. Also presented was correspondence addressed to the Maryland Office of Planning forwarding the signed Grant Agreement.

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

7) **Resolution No. 94-13**  
**Deactivation of the St. Mary's County**  
**Community Development Corporation**

As a follow up to last week's presentation by the Director of Economic and Community Development the County Administrator presented a Resolution authorizing the deactivation of the St. Mary's County Community Development Corporation and transferring its property, assets and liabilities to the St. Mary's County Housing Authority.

**Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and sign Resolution No. 94-13 as presented. Motion carried.**

8) **Response to Reclassification Requests**  
**Circuit Court Personnel**

As a follow up to previous executive sessions, the County Administrator presented correspondence addressed to Judges Briscoe and Kaminetz advising that the Commissioners remain committed to their decision to reclassify the positions from current grade 14 to grade 15 in order to maintain structural integrity within county government's classification plan. The letter indicates that it is the Commissioners understanding that the judges may consider reassignment of some administrative duties, and if so, the Board would be willing to reconsider the classifications during the FY '96 budget deliberations.

**Commissioner Bailey moved, seconded by Commissioner Thompson, to sign and forward the letter as presented. Motion carried three to two with Commissioners Jarboe and Lancaster voting against.**

9) **Resolution No. 94-14**  
**Amendment to Wicomico Shores Special Taxing District**

The County Administrator advised that when Ordinance No. 88-35 establishing the Wicomico Shores Special Taxing District was adopted, Lots 75, 76, and 77 were inadvertently omitted from the special taxing district. Therefore, County Administrator Cox presented Resolution No. 94-14 amending Ordinance No. 88-35 to provide that residential lots 75, 76, and 77 in Section 1 of Wicomico Shores Subdivision be included in the special taxing district.

**Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and sign Resolution 94-14 as presented. Motion carried.**

**DEPARTMENT OF PLANNING AND ZONING**

Present: Jon Grimm, Director, Planning and Zoning  
Peggy Childs, Recording Secretary

1) **Public Hearing - Agriculture Land Preservation Districts**

**ALPD #94-0987 - Walter F. & Betty L. Russell**

Requesting establishment of ALPD district and approval of sale of development rights easement. The property contains 256.2 acres, is zoned RPD (RCA Overlay), and is located on Bayside Road, approximately 400 ft. south of Maryland Route 234; Tax Map 31, Block 9, Parcel 78.

Mr. Grimm noted that these public hearings were advertised in The Enterprise on 6/8/94 & 6/15/94. The request meets all criteria of the ALPD program and is consistent with the Comprehensive Plan. A detailed staff analysis is provided and staff recommends approval. The ALPD Advisory and the Planning Commission also recommend approval. If approved by the Commissioners, the request will be forwarded to the State. Commissioner Loffler opened the hearing to public comment; there were no comments.

Commissioner Jarboe moved to authorize the Planning Director to forward the necessary documents for approval. The motion was seconded by Commissioner Lancaster and passed by unanimous vote. Commissioner Thompson commented that she hopes the easement is approved by the State because this is a productive and viable farm.

**ALPD #92-0516 - Slater/Rosenfield Property**

Withdrawn at applicant's request.

2) **Public Hearing**  
**Vested Rights**

To consider information submitted by previously grandfathered development projects for the purpose of extending additional grandfathering under ZO #78-43.

Legal Ad published in The Enterprise on 6/8/94 & 6/15/94.

Commissioner Loffler stated that the Commissioners are looking for information regarding what has been invested in the individual projects and what effect ZO #90-11 would have if the project is not grandfathered. He asked that there not be a filibuster and that information be summarized by each developer.

Commissioner Thompson noted that at this point the Commissioners have not established any deadline for final recording of the subdivisions. Mr. Grimm responded that the public hearing was advertised for the purpose of considering granting an additional extension beyond May 1, 1993, the date at which time the grandfathering provisions had expired. The additional extension would have to be retroactive to 5/1/93 and a time limit could be set. There are advantages to not setting a time limit and there are many reasons why one is appropriate and Mr. Grimm said he would be interested in having each of the developers address that issue; if the Commissioners going to accept the developers' investment in infrastructure as a way of grandfathering subsequent sections, the projects should be grandfathered to buildout.

Commissioner Thompson said in her mind the only reason the Commissioners are considering further grandfathering is because the County didn't have a policy in place at the time all of this started. On the other hand, in a separate public hearing, the Commissioners are going to hear an amendment to the Ordinance for a vested rights policy which does have a time limit and the Commissioners were very generous in extending the deadline to May 1, 1993. Mr. Grimm stated the Commissioners know that he has opposed any further grandfathering, and all he is saying is that, if the Commissioners are going to use an investment-based decision, it makes sense to him conceptually and legally that the investment is in place for the buildout of that project.

Commissioner Thompson added this is an important aspect and it is unfortunate that the Commissioners haven't had further discussion prior to coming to the public hearing because the applicants should know what the thoughts of the Commissioners are. She said she is satisfied that the issue has been raised and that it is understood that it has not been finally decided by this Board as to what kind of time would be allowed for the projects.

Commissioner Loffler cautioned the developers to not overemphasize dollars that are irrelevant because that will cloud the issue. He asked them to address the dollars clearly regarding the parts of their projects that have not been recorded and said he will ask Planning & Zoning to verify the information provided.

**Bay Ridge Estates, Section II, Phase II**

Present: Gene St. Clair, Developer

Mr. St. Clair estimated project costs for Phase II at 283,604. This includes extra width road construction, land given to MetComm for regional water tower and easements, 3,400 ft. of 12" water line, some stormwater management, and engineering/review fees. He said before he can go to record he must find a buyer so the bank will give him a letter of credit and he can do his

bonding and public works agreements, and he will probably need a year. He said if he could have recorded the lots without posting bonds and doing the public works agreements it would simply have been a matter of paying the taxes on the recorded lots, and it looks like there could be some mechanism to record the lots without starting construction.

**Pickett's Harbor at Cedar Cove / Villas at Water's Edge**  
**Section Four**

Present: Attorney Nancy Paige, representing J. Laurence Millison  
Gene Kopp, of Millison Enterprises

Ms. Paige said these two projects are part of the larger Cedar Cove PUD, which was approved in 1984 and has been under development ever since, and these two projects have been approved in various stages. Site plans are approved, record plats are recorded, public works agreements and bonds are in place, and much of the infrastructure is already built. The investment in Pickett's Harbor is approximately \$.5 million and the investment in the Villas at Water's Edge is \$1.2 million, including roads, water/sewer, stormwater management. Water and sewer improvements have already been dedicated and there are some buildings in place in the Villas at Water's Edge. They have not broken the investment out as to Phase 1 and Phase 2 but they will provide it.

Regarding Phase 1 of Pickett's Harbor, Ms. Paige said the overall investment is very substantial; water and sewer connections for each individual lot are in place and the developer has been paying for EDUs on those lots since 1991 and for Section Four, Phase 2 since 1990. Commissioner Loffler stated that Mr. Grimm would have to get back to the developer on this because PUDs have a separate set of rules, but he would still like the breakdown of investment that is already in place for this phase.

**Essex South**

Present: Larry O'Brien

Mr. O'Brien gave some background of Essex South, Sections 4A, 4B, 4C. Section 4A has been recorded and built out. As a condition of getting the project approved, they had to agree not to worsen the drainage problem in existing Sections 1, 2 and 3, which were not his project, and they wound up with a stormwater management pond that Chopticon and Great Mills could play a football game in. In addition, they also had to run a large culvert pipe through a knoll with 14-15 ft. of clay and redirect the flow in an opposite direction from the original drainage pattern. There was a substantial investment and it was designed to act as stormwater management for 4A, 4B, and 4C, so part of their infrastructure costs is an allocation on a per-lot basis.

McCrone, Inc. has broken down construction costs for 4B and 4C spent to date as \$183,000 plus design costs of \$24,000. Of the total cost of \$623,000 for Sections 4B and 4C, they have already spent \$207,000 or 33%.

Mr. O'Brien said he is in the same situation as all the other developers; you have to have the bonding to go to record and without a letter of credit you can't get your public works agreements recorded, and they have to have a market to get a letter of credit. In addition to that they ran into a legal problem with the owners of the property; those issues have been resolved and there is a trustee for the property whose sole job it is to dispose of the property as quickly as possible, but it has been virtually impossible to market the property because when every time he has an interested party they call DPZ and are told the development is not approved because they missed the May 1, 1993 deadline.

Regarding the deadline to go to record Mr. O'Brien said he wouldn't want to have less than 12 months to go to record; right now what is being proposed to him is a two-year buildout schedule for the houses but the market is not there yet because his project is 100% tied to the Navy Base, and the market won't be there until mid-1995.

Mr. O'Brien agreed with Mr. St. Clair that there could be a mechanism to allow subdivisions to go to record without bonding and still prevent lots from being sold without streets or improvements, and he thinks that would solve the problem for the future. Commissioner Bailey commented he thinks that is something the Commissioners should look into. Mr. O'Brien entered into the record a letter from Mark Henderson, a homeowner in Essex South which states his awareness that there would be another extension to Essex South and his surprise that it hasn't happened sooner.

**Donald P. Lynch Subdivision**

Present: Donald Lynch

Mr. Lynch stated this is a family subdivision which has never been approved; it has been held up by the County because of the possibility of FDR Boulevard coming through and the County taking some of the property. There has been no investment because there was no reason to invest; he didn't know whether the subdivision would be approved. Mr. Grimm stated this project received final plan approval in 1989 and was legitimately grandfathered to 1993, but the issue is not the density, it is the County's desire to save some money in the long term regarding the right-of-way acquisition. If you remove the road alignment issue, there is no issue with this subdivision, but Mr. Lynch will lose 2 or 3 lots because of the road alignment and setbacks. Commissioner Loffler commented he thought the Commissioners had a pretty clear picture of this subdivision; if the County stopped the process the County needs to get it straight.

**Countryside, Phase 2 / Hidden Acres**

Present: Jerry Nokleby, Surveyor  
Israel Swarey, Developer of Countryside

Mr. Nokleby said the County needs to look at these projects as valuable assets to prepare for the anticipated growth from the Navy move; they have been in the works for years and years and he doesn't think a time limit should be placed on them to go to record.

Countryside was started in 1979 and they are still working on it. The first phase was completed and Pegg's Road was deeded to the County in good faith and \$140,000 cash was paid by the developer to have it built. When they deeded the property for Pegg's Road the County had the 1979 plans and the developer was told that nothing would harm their project; now they are told that the County wants a 75 ft. setback for Pegg's Road. If it wasn't for the developer, the County wouldn't have Pegg's Road.

Partial actual costs associated with Phase 2 of Countryside (not including installation of the sewer) are:

Engineering	-	\$ 20,000
Water	-	60,000
Sewer	-	30,000
Site Prep	-	79,000
Roads	-	<u>30,000</u>
Total	-	\$219,000

Mr. Nokleby said the project was downzoned from 30 to 15 garden apartments; under the new ordinance they can only have 60 units and with the new Ordinance setbacks they will lose at least 20 more. Mr. Grimm said it is important to note that this project is like Bay Ridge Estates Phase 3; it has not been recorded and has never been grandfathered. Mr. Nokleby said he thinks site plans should be looked at differently than subdivisions and there should be a mechanism to allow projects to go to record when they have been worked on for years.

### Hidden Acres

This is a wet months perc subdivision and Mr. Nokleby said he has worked for 2 full years with the Health Department to get to a point where the lots are recordable. Plats have been prepared and reviewed by the Health Department for perc tests; off roads have been comp'd and designed but have not been submitted. This is a project where not a lot of money has been spent for infrastructure, however, aside from the design work which is estimated at \$50,000 and the perc tests. This project has 100 acres and the developer is only asking for 30 lots. He is taking all of the lowland, all of the virgin timberland, all of the swampland that the County is trying to protect under the ordinance and is throwing 50 acres into an undisturbed open area. Under the new ordinance he would have to hire a consultant/landscape architect to tell him what area to set aside and save. The only developable land is the high knoll that runs down with the road design and he doesn't think they need to pay somebody \$20,000 to tell them where to save it. Probably only 50% of the lots will be cleared - that's 75 acres of a 100 acre tract that will not be touched.

Mr. Grimm said the problem with Hidden Acres is that it didn't meet the grandfathering provisions of the FCA; it simply didn't qualify.

### Courtyards at Great Mills (Mattapani Village)

Present: William Wirth, of Wirth & Company, Developers  
John Norris, of NGO

Mr. Wirth replied that his share for construction of improvements was \$50,000 (water/sewer line and the road). The \$50,000 plus the other costs shown on the 10/7/93 Schedule total \$216,600.

Mr. Wirth said he missed getting a bond from the Community Development Administration by a day or two because, although he requested and the Board of County Commissioners took expedient action to approve the project, because the approval couldn't be done by contacting three members of the Board between one Commissioners' meeting and the next, he lost the ability to get the bond and he lost the project. Mr. Wirth said he understands now that CDA will come back in and underwrite this project, but he is not in a position to continue the project himself and is looking for someone else to develop it. Regarding how long it would take to go to record, he said he doesn't know how long CDA would take but HUD has indicated they would expedite the project, and he would estimate perhaps 3 months. Mr. Norris said if the project were grandfathered a single building permit could be pull which would be good for a year, and then a six-month extension could be obtained.

### Heard's Estates, Section 4

Present: Rodney Gertz, of Quality Built Homes

Mr. Gertz said Heard's Estates was approved in 1989 and they have been moving forward with it ever since. Section 4 is for 19 lots and the roads are in. Stormwater management is complete for the 3rd and 4th phases; the silt fence is in for phase 4; grading has been done for phase 4; engineering is completely done and ready to submit; force taps for water and sewer are in for phase 4 with 200 ft. of line. Roads are rough-graded and boxed out; the cul-de-sacs are in and compacted, ready for fine grading and bank-run gravel. The sewer line is a 10" line at the entrance and was put 21 ft. in the ground to carry the 4th phase. He estimated infrastructure at \$150,000 but will prepare and provide a cost breakdown for Phase 4 and said they should be able to go to record in 6 months.

This completed discussion on the particular projects and Commissioner Loffler asked if there were any other comments.

Leonard Greess read a prepared statement, saying he is sympathetic to some of the situations described today but not to special treatment because of market conditions. He charged that the Commissioners have been ignoring the opinions, advice and recommendations of the



Director of DPZ and the interpretation of prevailing State law by the County Attorney in its efforts to provide to a group of developers and builders the advantages of buildout under a superseded zoning ordinance. It also has ignored citizen/taxpayers, representatives of public interest groups and opinions expressed in newspaper editorials that have pointed out the developers are being allowed to avoid substantial amounts of property tax, in some instances estimated in the tens of thousands of dollars, while Joe and Jenny Homeowner have had to foot the bill, although they are in the same recession as the builders. He asked that the Commissioners provide for the hearing record:

- (1) The specific criteria by which the developer request for an extension of grandfathering will be evaluated; deadline dates and descriptions of qualifying investment are particularly important.
- (2) Facts supporting the Board's decision in each instance.
- (3) Deadlines and action to be taken regarding the recording of approved plats so assessments can be appropriately revised from agricultural land.

Mr. Greess asked the Commissioners to explore the legal possibilities for recording plats without bonding but with effective restrictions on sales, as a reasonable solution to the issue of delayed reassessment.

Larry Pinto, of the Commission on the Environment, asked how the public or Commissioners can make an informed decision on operating under the #78-43 Ordinance without knowing the impact on the community and the environment?

Larry O'Brien responded that, although the Subdivision Regulations may be dated 1978, there have been revisions and additional requirements on developers all along to bring the projects in accordance with the new environmental issues. He said the impacts he is dealing with are design issues and do not have a tremendous impact on the neighborhood or the environment. Mr. O'Brien asked for a decision today, saying there has been enough discussion; it is time to make a decision.

Commissioner Thompson commented that she thinks Mr. O'Brien answered a lot of Mr. Pinto's questions. Commissioner Loffler said the projects have to be looked at from an investment standpoint and then from an impact standpoint, but the Commissioners can't respond to the legal issue until they have all the information. Commissioner Bailey commented that if we could find a way to send the projects to record without bonding the taxes would be paid on the projects and that is something the Commissioners should look into. Commissioner Loffler responded that they would be unimproved lots and said he doesn't want to give the impression that it would be a lot of money; it is a minor point. He said the Commissioners need to be very careful if they modify the system because it was put in place to protect the people; once you subdivide land it is very easy for it to be transacted.

Commissioner Loffler closed the public hearing at 11:55 a.m., directing staff to come back in two weeks and asking the developers to get their cost breakdowns in within 10 days.

#### **EXECUTIVE SESSION**

Commissioner Bailey moved, seconded by Commissioner Thompson, to meet in Executive Session to discuss matters of Personnel (Employment Contracts), as provided in Article 24, Section 4-210(a)1. Motion carried.

**Personnel (Employment Contracts)**

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

Authority: Article 24, Section 4-210(a)1  
Time Held: 12:30 p.m. - 12:45 p.m.

Action Taken: The Commissioners reviewed a memorandum from the County Administrator and indicated concurrence with staff's recommendations.

**ALLIANCE FOR ALCOHOL DRUG ABUSE PREVENTION  
SUMMER OF SAFETY CAMP GRADUATION**

The Commissioners attended the referenced Summer of Safety Camp Graduation held at the Leonardtown Middle School Multipurpose Room.

**COMMUNITY COLLEGE BUILDING COMMITTEE  
STATUS REPORT**

Present: Elizabeth Dufresne, Chair  
Gay Boecker, Member  
Tom Mattingly, "  
Fred Wallace, "  
Charlotte Young, "  
John Sine, President, Community College  
Elaine Ryan, Vice-President  
Jane Sypher, Assistant Dean, Community College at St. Mary's  
John Frye, Consultant  
Dan Ichniowski, Director, Department of Public Works  
Jay McGrath, DPW

The County Administrator advised that the purpose of this meeting was to discuss the status of the community college building project relative to the historic designation, status of building plans, time schedule, and type of library services to be provided.

In response to comments from Mrs. Dufresne that the project was behind schedule, Mr. Frye pointed out the following issues that resulted in the delay:

- o The investigation of the historical status of the property. Results should be available by mid-July. (Mr. Ichniowski pointed out that this survey is being done at the appropriate time, that once the historical significance is determined, adjustments can be made to the site plan if necessary.)
- o The down zoning by the Town of Leonardtown back to educational use that was on the original property. The joint hearing with the Town Council and the Town Planning Commission is scheduled for July 5.
- o The issue of demolition of the building not needed for the project (the old dormitory). (Mr. Ichniowski advised that the specifications for the demolition have been received and must be reviewed by the State. A determination needs to be made as to how to proceed--by county forces, rental contract, or bid out.)

Other areas of discussion included:

- o The one-half acre alongside Md. Rte. 5 that is not part of the college property and is owned by the Catholic Church.
- o The schedule for completion of the project--instead of completion by January 1996 from the Spring Semester, the more realistic completion time frame appears to be the Summer of 1996.
- o A need for projected costs to the County for operation of the college.
- o Whether items that have been left in the school could be given to other groups, particularly the cornerstone, which Mrs. Dufresne indicated should not be destroyed.
- o That the Department of Public Works bring the design development documents to the next building committee meeting for discussion.
- o That the County should remain involved at the state level in order to be in a good position to obtain state money.
- o That adequate library services will be provided to the students with a learning resource center that will be tied into the county's library system.

In closing the participants agreed that it was important to keep the lines of communication open so that all involved in the project are kept informed.

**OFFICE ON AGING  
AREA AGENCY PLAN**

Present: Gene Carter, Director

Mr. Carter appeared before the Commissioners to present the Fiscal Year 1995 Area Agency Plan pointing out that it is a two-year plan as required by the State. Mr. Carter highlighted the main program goals as contained in the plan in the following areas:

- o Opening of the Chancellor's Run Activity Center which houses the Grace W. Loffler Senior Center and the Marlyn Weisman Medical Adult Day Care Center. Mr. Carter advised that the building is near completion; however, the opening may be delayed until all inspections have been completed. The reception is scheduled for July 12.
- o Staffing of the Chancellor's Run Activity Center.
- o Expanded transportation services

**After discussion Commissioner Thompson moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the Area Agency Plan as submitted. Motion carried.**

7:00 P. M.

**PUBLIC HEARING  
BOARD OF COUNTY COMMISSIONERS/AIRPORT COMMISSION  
RULES AND MINIMUM STANDARDS FOR OPERATION OF COUNTY AIRPORT**

Present: Commissioner Carl M. Loffler, Jr., President  
Commissioner W. Edward Bailey  
Commissioner Robert T. Jarboe  
Commissioner John G. Lancaster  
Commissioner Barbara R. Thompson  
Dave Seeman, Chair, Airport Commission  
William D. McGarity, Vice-Chair, "  
Glen Gardiner, "  
John Pleisse, "  
Pete Weiskopf, "  
Richard Wilson, "  
Sidney Wood "  
Joseph Densford, County Attorney  
Stewart Diana, Piper & Marbury  
Bill McHugh, Consultant  
Edward V. Cox, County Administrator  
Dan Ichniowski, Director, Department of Public Works  
Representatives of FBO, Skydiving Center and other interested citizens

The Board of County Commissioners and the Airport Commission conducted a public hearing to receive comments on the draft Rule and Minimum Standards for the operation and control of the St. Mary's County Airport.

Mr. McHugh explained that he had been retained by the County to work with the Airport Commission to update and revise the Minimum Standards and Rules for the St. Mary's County Airport. The update is necessitated by the increased activity and growth of the facility. Mr. Diana was retained at the same time by the County to assure that rules and minimum standards were adopted in accordance with state law. The County in accepting federal aid for the development of the airport, runways, taxiways and aprons, the county must main control of the activities at the airport for the safety of the aeronautical activities at the airport and the general public. After this meeting and taking into consideration the comments received, the Rules and Minimum Standards may be revised to incorporate any amendments.

After the presentation by Mr. McHugh, the Commissioners opened the hearing for comments and questions from the audience:

**Alice Gilbert** - (Lexington Park - skydiver) Expressed opposition to Section II.F.6. - Limit on number of skydivers to 10 jumpers per 15 minutes. Suggested that it should be 22 jumpers per 20 minutes.

**Paul Gelrud** (owner of Showtime Deli in Wildewood) - Stated that skydivers have brought economic help to the Center and that the rules may reduce numbers of skydivers coming to the County.

**Michael Rademacker** (Arlington, Va. - skydiver) Referred to FAR's about right of way rules between skydivers and aircraft traffic pattern section in the proposed rules is in conflict with the FAR's and it becomes a safety issue.

**Scott Patterson** (Alexandria, Va. - skydiver) Right of way to plane, - Expressed concern about jumper coming and aircraft coming in for final approach. Aircraft has power to back up and circling around, skydivers do not.

**Moe Kriznik** (Takoma Park - skydiver) - Addressed right of way to planes over canopies and bringing family and friends to watch jumpers landing in the drop zone.

**Philip Donovan** (Waldorf - skydiver) - Opposed to possible criminalization of dropping outside of drop zone area. This will create a safety hazard.

**Steve Hopkins** (skydiver) - Concerned about rules regarding 150 foot apron around taxiways. If skydivers have to concentrate on a certain contained area, attention will be drawn away from other air traffic, which would decrease safety margin.

**Mike Branch** (Wildewood) - Applauded effort to establish enforceable rules. Requested that the Commission reconsider Section I - Purpose stating that compatible operations with the surrounding area of the airport should be paramount consideration and should be in basic charter. That it contain language to insure compatible operations of the airport with the general public in the surrounding areas. Pointed out excessive noise by users of the airport.

**Elaine Bildman** (Air Park Sales and Service) - Re I. J.(4) hard landings - needs clarification; I. K. - should be a time restriction for unattended parking; I. L. agreed with keeping people behind the fence off the AOA; noted that aircraft is not as maneuverable as had been previously mentioned; problems with demised area; holidays should be specified (minimum standards); concerned about skydivers landing off the drop zone; concerned about area designated for self-fueling.

**Steve Bildman** (Air Park Sales and Service) - to prevent accidents between different types of aircraft, patterns should remain as they are and enforce people to fly at certain altitudes to keep noise abatement to a minimum. Changing to a non standard pattern would increase safety problems. Agreed with the 10 jumpers per 15 minutes because of the limited space; all parks in the county have a trespass rule and believed there should be one for the airport.

**Dave Owen** (Falls Church, Va. - skydiver) - Rules are a veiled effort to drive skydivers off the airport. Referred to his letter to the Airport Commission which he will send to the County Commissioners.

**David Purcell** (Accokeek - skydiver) - No fatalities have been related to skydivers; skydiving activity is greater than any other activity; opposed to off zone landing rule, it is sometimes safer to land off zone than in the drop zone; opposed to 500 foot rule; rules will result in diminished income at the airport.

**Michael Agosti** (Arlington, Va. - skydiver) - Rules are arbitrary--referred to Section II.F.c. and d. relative to wind speed; opposed to number of jumpers limitations; opposed to rule regarding landing off drop zone;

**Dave Flaus** (Greenbelt - skydiver) - Referred to USPA rules and stated there was no need for additional rules; rules are in conflict with USPA rules

**George Anderson** (Washington, D. C. - skydiver) - Opposed to limitations on night jumping, which he stated was a requirement for certain licenses; restrictions on parachuting 15 minutes before and after scheduled planes.

**John Hawley** (Fairfax - skydiver) - opposed to restrictions for night jumping and missing drop zone, and the fact that these are misdemeanors.

**John Cly** (Glen Burnie - skydiver) - opposed to: restrictions on night jumping, and time limit restrictions on landings around other aircraft schedules, limitations on the number of jumpers, jump master requirement for experienced skydivers; 150 foot boundary rules, no available gasoline on holidays.

**Try Droegemyer** (Lanham - skydiver) - opposed to limitation on number of jumpers; no available fuel on holidays and weekends.

**Lisa Marshall** (Towson - skydiver) - The Skydiver Center is at one of the safest airports and the rules may increase safety problems, could impact revenues to the county.

**Brent Milner** (Towson - skydiver) - Opposed to restrictions on drop zones, right-of-way limitations, night jump restrictions, 150 foot boundary rules, jumpmaster requirements, no holiday fuel sales.

**Vince Sabio** (Columbia - skydiver) - Opposed to restrictions concerning night jumping (all night jumps are done in accordance with FAAS and USPA guidelines), landing outside drop zones, and jump manager in drop zone.

**Harvey Jacobs** (Attorney for Skydivers) -(Comments not addressed in April 14 letter)  
**Minimum Standards:** opposed to I.B.15 (definition of designated parachute drop zone and IB.16 definition of drop zone manager); I. B. 38 and I.B.33. in Rules (definition of skydiving - it is overly broad); II.F.6.b. - inability to obtain fuel during holidays and weekends; II.F.8.a. relating regulating skydiving to and from the airport relative to regulating traffic patterns; II.F.8. questioned leasing of apron area; III.A.1.f.(3) re for cause termination - it does not address safety or recklessness only a dollar threshold; III.A.2.b. - questioned police powers of the Airport Commission and the County. Need explanation how the County can act with or without legal process; and without statute to exculpate the County from prosecution from any claims; III.B.1. - imposing misdemeanors for violation of any of these rules is in excess of the county's authority.  
**Rules:** I.F.4.d.(2) - could subject pilots to a double jeopardy (federal level and county level); I.F.5. Permits - denial of permits based on history of disputes or litigation with landlords would be a relevant factor; I.G. - Waivers - Does not require transient pilots to obtain waivers, yet the County requires transient skydivers to obtain waivers prior to conducting aeronautical activities. Should not be distinction between the two for the purpose of waiver. Should also require waivers from transient pilots. I.H.5 and 6. - Requirement for Liability Insurance - This is not similarly required of transient pilots; Stated that such insurance is not available for skydiving operations. (Presented letter from Hargrove Insurance Agency indicating that the insurance is not available.)

(Airport Commission Member John Pleisse requested Mr. Jacobs to submit an alternative to this situation.); II.F.(1) - Re landing off drop zone - Proposed amendment: "Except in case of emergency no skydiver shall intentionally land or be instructed to land anywhere on the airport except within the boundaries of the designated parachute drop zone." II.F.2. - Night Jumping - This is covered by the FAR's (suggested a night box for request for waivers); II.F.2.a. and b. - Concerned about requirement for scheduling skydiver activities around schedules for other aeronautical activities; II.F.2.e. and 3. - radio calls to be used by pilots - These additional requirements adds an additional burden, by adding multiple requirements over and above FAA training, can potentially confuse the pilots; II.F.6. - Opposed to limitation on number of jumpers; II.G.5. - Re location of jumpers - Quoted Judge Mott that skydiving is not "an exact science." II.H.1. - Hot fueling - Recommended modifying section "Except where hot fueling has been demonstrated to be accomplished in a safe manner, no aircraft may . . ." III.2.(a) - Citations - The enforcement officer appointed by the County, will be held to a much higher standard than otherwise enforcing logical common sense airport rules.

In closing Mr. Jacobs suggested a meeting to put together rules that will work. Mr. Jacobs advised that he will submit his comments in writing.

**Dennis Mercer** (Leonardtwn High School student - skydiver) - Opposed to limitations on numbers of skydivers, pointed out there are staggered canopy openings; limitations on night jumping; misdemeanor for missing drop zone.

**James Kreitner** (Rockville - skydiver) - Pointed out that since 1982 there has only been one skydiving collision, which occurred in Massachusetts.

**Christopher Margand** (Washington, D. C., attorney, skydiver) - Questioned I.G. - waivers and indemnification. The responsibility, controls and expertise that the skydivers have been subjecting themselves to has been under the auspices of the USPA. If these regulations are put in place, the expertise of the skydiving personnel will be usurped by the County.

**Cindy Gibson** (California - Skydiving Center) - Questioned definition of Designated Drop Zone - the landing zone had been mutually agreed upon between Center and County. Unfair for the county to try to reduce the size of the landing field and otherwise restrict operations after the Skydiving Center came to the County and financial commitments made by the Center; Questioned limitation to number of jumpers, requirement for drop zone manager. Questioned what research had been done relative to safety issues and whether it was based on facts. II.F.2. - Opposed to restrictions on night jumping, right of way to other aircraft (noted that the skydivers were not given opportunity for input, stated that she had envisioned a series of meetings during the development of the rules. She suggested that the rules be crafted in coordination with the active participation of users of the facility.

**Patrick Kohl** (Lexington Park) - Concerned about safety issues relating to parachuting at airport, should limit student jumps at night, restrictions at certain wind speeds - 10 knots maximum; supported jump zone manager; supported idea of radio contact between student and instructor, needs more detail about expertise of a jump manager; supported limitation of number of jumpers. Hoped that the criminalization section will only be used as a last resort. Right-of-way for jumpers should be addressed since not all jumpers are familiar with USPA rules; should discourage people from being in the jump zone; penalty should be imposed if landing out of jump zone or off of air field is not an emergency situation.

**David Hale** (LaPlata - skydiver) - Opposed to limitation on number of skydivers (suggested that a cost analysis be done) and to 30 minute restriction between other aircraft takeoffs and landings.

**Richard Burnett** (Lothian - skydiver) - Opposed to restrictions on drop zone landings and limitations on number of skydivers.

**Jaime Esper** (Bowie - skydiver) - Opposed to restriction on landing outside drop zone, limitation on numbers of skydivers, and night jumping; re helicopter and emergency operations suggested that having the helicopter operators advise when they are taking off and landing. Re not permitting anyone in drop zone but skydivers, he suggested that if family members wants to watch from the drop zone they be accompanied by skydiving staff. Suggested that the Commissioners and Airport Commission participate in the skydiving operation to get a feel for it.

**Rick Kelly** (Arlington, Va. - skydiver) - Opposed to restrictions for landing off drop zone.

**George E. Clarke** (Lexington Park) - Stressed importance of having regulations in order to have a safe operation at the airport particularly with the growth of the community and the airport.

**Loren Harvey** (Upper Marlboro - skydiver) - Concerned about: yielding to other aircraft when the aircraft has the ability to make another pass, but skydivers don't; misdemeanor for landing outside drop zone; no fuel available on holidays.

**Melinda McGrath** (Charlotte Hall - Office Manager, Skydiving Center) - Opposed to limitation on numbers of skydivers, stating it was not cost effective and would result in loss of revenue.

**Bill Havrahan** (Ellicott City - skydiver) - Rules are too restrictive, county should work with the skydivers; rules are not equally applied to pilots, opposed to drop zone manager, 30 minute restriction between other aircraft takeoffs and landings, and restrictions on night jumping.

**Dan Wall** (Takoma Park - skydiver) - Opposed to limitations on night skydiving, yielding right-of-way, restrictions on landing off drop zone, limitation on number of jumpers; questioned \$2,000 property damage (doesn't make it safer); filing incident report.

**Kevin Gibson** (California - The Skydiving Center) - 90% of skydiving centers are located at airports; Skydivers follow USPA Rules which are the best and most basic rules that skydiving needs to be accomplished by. These rules do not resemble what is being proposed by the County. Pointed out that the skydivers were not consulted in the development of the rules; that a number of rules that could be eliminated or revised with meaningful dialogue between rule makers and skydivers. Expressed concern about requirement for jump masters, night jumping limitations, drop zone size and location, jumper/aircraft interaction, time necessary for allowing for allowing special operations (a rule that was developed without input from police helicopter operators). Requested the Commissioners/Commission to revise the current plan of adopting these rules so that they can be discussed with the skydivers in order to develop meaningful, useful, and legal rules for safety and to prevent costly errors of the past.

**Christie Bean** (Leonardtown, Skydiving Center) - Opposed to drop zone manager requirement (who would decide who is experienced and knowledgeable);

**Pat Weaver** - Will submit written comments.

**Joseph Hoe** (Fort Washington - skydiver) - Opposed to restrictions for drop zone and limitation on number of jumpers; re night jumping, written request should have response within 24 hours; regulations are currently in place regarding wind speeds; multiple regulations will muddy the operation; rules are already in place; concerned about multiple levels of regulations about rights-of-way which may cause confusion; designation of drop zone should be enlarged to get it away from buildings, ditch and trees, where there is less turbulence; that only qualified people be allowed in the drop zone.

**George Haliscak** (Lexington Park) - Indicated the need for regulations for proper safety at the airport; stressed the importance of using unicom for safety reasons.

**Patrick Young** - Will submit written comments.

#### ADJOURNMENT

The meeting adjourned at 11:00 p.m.

Minutes Approved by Board of  
County Commissioners on 7/5/94

*Judith A. Spalding*  
Recording Secretary