

BOARD OF COUNTY COMMISSIONERS' MEETING

September 15-16, 1976

Present: Commissioner James M. McKay, President  
Commissioner Ford L. Dean  
Commissioner J. Patrick Jarboe, M.D.  
Commissioner Larry Millison  
Commissioner John K. Parlett  
Edward V. Cox, County Administrator  
Judith A. Mullins, Recording Secretary

The meeting came to order at 8:50 a.m.

READING AND APPROVAL OF MINUTES

The minutes of September 8-9, 1976, were read and corrected. Commissioner Jarboe made a motion to approve the minutes as corrected, seconded by Commissioner Parlett. All Commissioners voted in favor of this motion.

ENCUMBRANCE VOUCHERS

Present: Harris Sterling, Director of Finance

Mr. Sterling presented the encumbrance vouchers for the Commissioners' review and approval. Commissioner Jarboe made a motion to approve payment of the bills as submitted, seconded by Commissioner Dean. All Commissioners voted in favor of the motion.

INSURANCE COVERAGE FOR CETA EMPLOYEES

The County Administrator informed the Commissioners that when the CETA Program began in the County in April 1975, CETA employees were not covered under the County's insurance policy because it was assumed that these were short-term employees. Mr. Cox stated that the County recently has been negotiating with CETA officials to pay for the insurance coverage of the CETA participants. Therefore, Mr. Cox recommended that the 26 CETA employees be covered under the County's insurance policy with the County bearing the cost until the end of December 1976, which would amount to approximately \$1,000 of County money if all CETA employees take advantage of the insurance.

Commissioner Dean made a motion that we allow the CETA employees to participate in the County insurance package and that we fund the County's share of premiums through the end of this calendar year in an amount not to exceed \$1,000, seconded by Commissioner Jarboe. All Commissioners voted in favor.

POLICE SERVICES STUDY

The County Administrator discussed correspondence from the firm of Cresap, McCormick and Paget, the consultant firm that conducted the Police Services Study, which stated that since their contract has been complied with, if the County was interested in continuing their services that it be on a per diem basis. The Commissioners agreed that a ceiling amount be determined and that the County Administrator respond to this correspondence in the affirmative.

In this same regard, the Commissioners decided that the meeting scheduled for September 22 be postponed at this time.

SUPPLEMENT TO JOHNSONGRASS AGREEMENT

The County Administrator presented the Supplement to the Agreement for the Control and Eradication of Johnsongrass from the Maryland Department of Agriculture, said Agreement reimbursing the County the sum of \$583.06.

Commissioner Jarboe made a motion to authorize Commissioner President McKay to sign said Supplemental Agreement, seconded by Commissioner Dean. All Commissioners voted in favor.

ROAD RESOLUTIONS

The County Engineer's Office presented the following Road Resolutions for the Commissioners' review and approval:

R-77-4 - Chaptico-Mechanicsville Road - rescinding Resolution No. 75-22, posting Chaptico-Mechanicsville Road at 30 miles per hour from its intersection with Maryland Route 5 for a distance of approximately one mile and the remainder of the road to be posted at 40 miles per hour. Commissioner Dean made a motion to accept said Resolution, seconded by Commissioner Parlett. All Commissioners voted in favor.

R-77-8 - Golden Beach Road - posting Golden Beach Road at 30 miles per hour the entire length of the road from the intersection with All Faith Church Road to its intersection with Hillview Drive; and that said speed limit be for the entire duration of the reconstruction of this road. Commissioner Dean made a motion to approve said Resolution, seconded by Commissioner Parlett. All Commissioners voted in favor.



POTOMAC RIVER MUSEUM COMMITTEE

The County Administrator brought to the Commissioners' attention a request received from the Potomac River Museum Committee via Mr. Michael Humphries, for the County to accept the donation of a dory boat as explained in the correspondence dated September 9, 1976. The acceptance of this boat by the County would establish the possibility for obtaining insurance on same.

Mr. Cox suggested that this issue presented an opportunity to discuss the more general issue of the direction of the Potomac River Museum Committee and its relationship to County government. The Commissioners agreed that such a discussion was in order and directed the County Administrator to set up a meeting between the Commissioners and the Museum Committee, at which time the issue of the dory boat will also be discussed.

LOWER POTOMAC RIVER WATER QUALITY MANAGEMENT PLAN

The County Administrator advised the Commissioners that the County is in receipt of a copy of the draft Water Quality Management Plan for the Lower Potomac River Basin and that the County's formal comments on the Plan are expected to be presented at a hearing scheduled on the Plan for October 6, 1976. The Commissioners agreed that Mr. Platt should be requested to coordinate the County's effort in formulating formal comments and to have said comments available for Commissioners' review and approval prior to October 6, 1976.

SHERIFF'S DEPARTMENT

Present: Lt. Gene Pellillo  
Lt. Joe Sommerville

Due to the death of Sheriff Sanger, Lt. Pellillo appeared before the Commissioners to officially notify them that until such time as the Governor appoints a Sheriff, he will be assuming all responsibility of the Sheriff's Department. He stated that he and Lt. Sommerville will continue to carry out the duties of the office as Sheriff Sanger would have wanted.

Commissioner McKay, speaking on behalf of the Commissioners, stated that he was confident that Lt. Pellillo and Lt. Sommerville will carry forward with this responsibility and do a good job, and that all residents of the County should be grateful that they have men of their caliber who have the ability to undertake this responsibility in this tragic time.

ROAD BONDING IN SUBDIVISIONS

Present: Joseph Ernest Bell, II, County Attorney

As discussed at last week's meeting, the County Attorney appeared before the Commissioners to discuss the status of road bonding in certain subdivisions in the County. Since this was a matter of litigation, the Commissioners agreed to meet in Executive Session. The session was held from 10:05 a.m. to 10:30 a.m.

DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Present: Joseph Anastasi, Secretary, DECD  
Tom Sequella, Executive Assistant, DECD  
Joan Sewell, Field Liaison Coordinator

The above persons from the Maryland Department of Economic and Community Development appeared before the Commissioners to discuss their Department's relationship to St. Mary's County and how they may be of assistance to our County. Mr. Anastasi explained the functions and responsibilities of DECD and questioned the Commissioners on their specific concerns. He stated that there were three areas his Department could assist St. Mary's County with: (1) development (industrial, tax base); (2) housing; and (3) tourism.

In closing, Mr. Anastasi stated that if the Commissioners have any questions or requests to contact his office for assistance.

The Commissioners thanked Mr. Anastasi for coming to St. Mary's County and making his presentation.

PRESS CONFERENCE

Present: Jack Kershaw, Enterprise  
Sunny Schust, Enterprise  
Dick Myers, WKIK  
Mike Kleinbeck, Beacon  
Patty Muchow, Guardian  
Leslie Walker, Guardian  
Erick Bromley, WPTX

At this time the regular semi-monthly press conference was held. A tape of the conference is on file in the Commissioners' Office.



REZONING HEARING  
CASE NO. 75-6  
WILLIAM E. RITTER

Application was made by William E. Ritter to have a parcel of land containing approximately 3.42 acres located on Maryland Route 246, approximately .3 mile from Chancellors Run Road, Eighth Election District, rezoned from R-2, residential, to C-2, highway commercial.

The secretary read the Notice of Public Hearing.

Commissioner McKay inquired if anyone present wished to speak for or against this rezoning request. There were no proponents or opponents present.

In view of the fact that there was no one present to testify as to whether or not the applicant has met all the legal requirements of the rezoning application, it was the consensus of the Board of County Commissioners that the applicant should be contacted to determine if he is still interested in this rezoning request and would like the hearing rescheduled. If so, then another hearing should be scheduled and the applicant should present evidence to the Board that adjacent property owners have been notified by Registered Letter of the new hearing as required by the Zoning Ordinance.

BIDS FOR HELIPORT FOR ST. MARY'S HOSPITAL

Present: Otis Wood, Director, Civil Defense

Mr. Wood presented for the Commissioners' approval bids submitted on the above-referenced project and explained that the lowest bidder, Owens Electric, exceeded the grant amount of \$950.50. In addition, the consultant fees for design amounted to \$1,500, which must be considered. The total amount, therefore, over the grant is approximately \$2,500. Mr. Wood recommended awarding the bid to Owen's Electric, with the elimination of Item No. 5, which is the evergreen trees.

After discussion, Commissioner Dean made a motion that Item No. 5 of the Heliport project be deleted, which is the evergreen trees, and that the bid be awarded to Owen's Electric, Inc., the lowest bidder, and that the difference in the amount of the grant and the total cost be borne by the County, which would involve a Contingency Account transfer in an amount not to exceed \$1,000, seconded by Commissioner Jarboe. All Commissioners voted in favor.

The meeting recessed at 12:50 p.m.

Thursday, September 16, 1976

Present: Commissioner James M. McKay, President  
Commissioner Ford L. Dean  
Commissioner J. Patrick Jarboe  
Commissioner Larry Millison  
Commissioner John K. Parlett  
Edward V. Cox, County Administrator  
Judith A. Mullins, Recording Secretary

The meeting reconvened at 8:50 a.m.

PIPES AT LAND O'LAKE SUBDIVISION

Present: Oliver Guyther  
Robin Guyther

Mr. Guyther appeared before the Commissioners to discuss the pipes used at Land O'Lakes Subdivision and gave a history of the purchase and installation of the pipe and the fact that an independent firm had inspected them and approved certain pipes and rejected others. Mr. Guyther stated that his purpose for this meeting was to get permission from the Commissioners to be able to use the acceptable pipe. In addition, Mr. Guyther suggested that the County establish a policy whereby SHA specifications would not have to be used for subdivision roads; however, these pipes should be inspected by an independent firm to be acceptable.

After some discussion, the Commissioners directed the County Engineer to review the matter of standards and return to the Commissioners with a recommendation concerning the acceptability of seconds for pipes in two weeks time.

POLICE PROTECTION DURING COUNTY FAIR

Commissioner Parlett informed the Commissioners that Mr. Elwood Cusic, who is a member of the Fairboard, contacted him with regard to police protection during the County Fair. Last year a private police firm was used, however, this was not satisfactory. Consideration is requested by the Commissioners to allow off-duty Sheriff's Department deputies to work overtime, like they do at carnivals, during the course of the Fair at a cost of approximately \$1,000.

Commissioner Dean made a motion that the Commissioners indicate to the St. Mary's Fairboard Association and to Lt. Pellillo that we will approve overtime pay for deputies working for the duration of the Fair and appropriate for this purpose a sum not to exceed \$1,000, seconded by Commissioner Jarboe. All Commissioners voted in favor.



NURSING HOME IMPROVEMENTS

Commissioner Dean brought to the Commissioners' attention that the Nursing Home Board has indicated that there are two necessary repairs needed for the Nursing Home:

1. Upgrading of the power panel and improving circuits in order to accommodate the fire alarm system for the Nursing Home;
2. Installation of flashing lights above the alarm bell as required by HEW because there are some at the Home who are deaf.

Commissioner Dean stated that the Nursing Home Board has the authority to proceed, but because of budget constraints, they may require part of their budgetary allocation which the County sets aside, and would require authorization from the Commissioners.

Therefore, Commissioner Dean made a motion that the Commissioners indicate to the Nursing Home Board permission to proceed with the necessary repairs at a cost of approximately \$4,500, and if necessary, the Commissioners would approve funds from either their budgetary allocation or from the construction project account, if funds are available from that account, seconded by Commissioner Jarboe. All Commissioners voted in favor.

LOWER POTOMAC RIVER BASIN WATER QUALITY MANAGEMENT PLAN

Commissioner Jarboe directed the County Administrator to request the Metropolitan Commission, Health Department, and Environmental Committee to review the above-referenced Plan and formally request their comments.

REZONING DECISION

CASE NO. 75-17 - CHARLES F. PAINTER

(Commissioner Millison excused himself from participating in this decision as there could be a possible conflict of interest.)

The County Commissioners conducted a Public Hearing on September 1, 1976, on the application of Charles Painter to have a parcel of land containing approximately 2.04 acres located on the west side of Maryland Route 235, adjacent to National Mobile Home Sales in the Eighth Election District, rezoned from R-2, Residential, to C-2, Highway Commercial.

Commissioner Jarboe made a motion that the request for rezoning from R-2 single-family residential to C-2, Highway Commercial, be denied for the following reasons:

1. The applicant in his presentation has failed to demonstrate any significant change in the character of the neighborhood since adoption of the Zoning Ordinance in May of 1974.

- a. No population change beyond the projected growth in the Comprehensive Plan;
  - b. No land rezoned in the immediately surrounding R-2 district since the adoption of the Zoning Ordinance.
2. There is no evidence presented or available to indicate a mistake in zoning.
  3. Commercial use would be incompatible with existing residential use on three sides of the property in question.
  4. The property is suitable for uses permitted in the existing zoning classification of R-2.
  5. The Planning Commission, after public hearing and deliberation, has recommended denial.
  6. Retention of this property and surrounding residential property as R-2 will help prevent complete strip commercial development along Route 235.

Commissioner Parlett seconded the motion. All Commissioners present voted in favor of the motion.

REZONING DECISION  
CASE NO. 75-5 - JF THEATRES, INC.

(Commissioners McKay and Millison disqualified themselves from participating in this rezoning decision because of possible conflict.)

The County Commissioners conducted a Public Hearing on August 25, 1976, on the application by Southern Maryland Theatres, Inc. (JF Theatres, Inc.) to have a parcel of land containing approximately 8.58 acres, located at the intersection of Maryland Route 235 and Town Creek Drive, Eighth Election District, rezoned from R-1, Residential, to C-1, Neighborhood Commercial.

Commissioner Dean made a motion to deny this rezoning request based on the following:

Applicant has requested rezoning of subject property from R-1 to C-1 (Neighborhood Commercial) with the applicant's stated justification being that an original mistake was made when the Zoning Ordinance was adopted and/or there has been a change in the character of the neighborhood since the adoption of the Zoning Ordinance.

The Board of County Commissioners upon making a finding of fact in this case finds no overwhelming evidence to support either contention of a mistake or change in the neighborhood.



A central issue to this case is the defining of the boundaries of the "neighborhood" in question. The attorney for the applicant has gone to some considerable effort with testimony offered in this and other rezoning cases in the general vicinity to state that dualized Route 235 acts as a natural neighborhood barrier and thus establishes the neighborhood's boundary at that point. If such should be true in other cases, so should it be in this one. If the "neighborhood" thus is considered as being bounded by the Patuxent River and Route 235, as one proceeds north along Route 235 from its intersection with Maple Drive, the area is residential in character on the east side of Route 235.

In fact, there is no commercially zoned property on the east side of Route 235 from this intersection until one gets to Hollywood. On the east side of Route 235 in the immediate vicinity of this neighborhood and the subject property there are four "commercial" developments: Tennyson's Bar and Grocery, the 7-11 Store, the California Post Office, and Norris' Grocery - all of which, as is the subject property, are zoned non-conforming.

The applicant, through his attorney and witnesses, testified that there was no zoned neighborhood commercial property to serve the residential neighborhood in the vicinity of the subject property. Examination of the zoning maps shows substantial C-1 and C-2 zoned property just south on Route 235. The residential area is also located just three miles from Lexington Park and is furthermore provided with convenience type shopping by the presence of Tennyson's, the 7-11, and Norris' Grocery Store.

The question must also be raised as to the matter of the furtherance of strip commercial development along Route 235, such being contrary to the Comprehensive Land Use Plan for St. Mary's County. If commercial rezoning is allowed for the subject parcel in the center of a residentially zoned area, what would be the basis for denying the next adjacent parcel or the next, or the next...???

Any development which has occurred in the neighborhood has been residential in character, thus serving not to change the character of this neighborhood, but rather further solidify its nature. Mr. Dan Raley, Chief of Permits and Inspections, St. Mary's County Office of Land Use and Development, has testified that for five (5) years no building permit has been issued for private, single family dwellings fronting on Route 235 from Lexington Park to St. Andrew's Church Road. Mr. Raley also observed that most of the land has already been developed. In other words, there has been little change in the character of the neighborhood since the adoption of the Zoning Ordinance.

While it is true that the Planning Commission recommended approval of this rezoning application, it did so with stipulations (see August 18, 1976 recommendations of Planning Commission to Board of County Commissioners). Such can clearly be



construed that the Planning Commission had some concerns about the commercial rezoning of this property being compatible with the residential character of the neighborhood.

In consideration of any application for rezoning, another aspect which must be taken into consideration is the potential effect of rezoning on the present and future transportation patterns in the area. The Office of the County Engineer's assessment of same for the subject property indicates questionable suitability of the property's situation to adequately and safely handle increased traffic loads which conceivably would be generated as a result of extensive commercial development. The Engineer's report is set forth below:

"A desirable access does not exist for the site. The degree of desirability is dependent upon the land use (commercial shopping area, etc.), the intensity of the use, and the specifics of the site plan.

"The property fronts on State Route 235 where a deceleration lane for Town Creek Drive has been provided according to AASHO Standards. A deceleration lane for a 55 mph roadway should be at least 500 feet long - this would include the entire frontage on Maryland Route 235; any driveway access onto the highway would interfere with the proper operation of the deceleration lane.

"Town Creek Drive is a major collector and currently has a traffic backup at the intersection with Maryland Route 235. Any driveway entrances onto Town Creek Drive would compound the problem and should be avoided.

"An access onto Ford Drive could be constructed and would provide a minimum sight distance of 200 feet. An entrance onto Gunston Drive across from the 7-11 Store is possible and would provide a sight distance of 250 feet. Some widening or changes in the existing roadways may be necessary to provide safer access to the property."

Commissioner Jarboe seconded the motion. All Commissioners present voted in favor.

TRY-ME TAVERN BUILDING PERMIT  
ZONING APPEAL CASE 76-3 ONE-STOP SHOP

Commissioner Jarboe presented for discussion a position paper on the above-referenced matter. After some discussion of this subject, the Commissioners agreed to table the matter until next week's meeting.



METROPOLITAN COMMISSION  
CONVERSION OF PATUXENT WATER COMPANY TEMPORARY BONDS

Present: Mike Marlay, Director, Metropolitan Commission  
Ed Clark, Bonding Attorney

Representatives from the Metropolitan Commission appeared before the Commissioners to discuss the resolution passed by the Metropolitan Commission and the proposed resolution for the County Commissioner's approval regarding the faith and credit of the County for the coupon bonds for the Patuxent Water Company, issued by the Metropolitan Commission as replacement for the temporary bonds outstanding in the amount of \$650,000 previously issued.

Commissioner Jarboe made a motion that the Board of County Commissioners of St. Mary's County concurs in the judgment of the St. Mary's County Metropolitan Commission as set forth by the terms of the foregoing 1976 Commission Resolution. This Board accordingly approves the issuance of bonds in coupon form in exchange for those bonds (or portions thereof) now outstanding in temporary, fully registered form of the series of bonds of the Commission designated St. Mary's Metropolitan Commission Bonds (Second Issue) upon the terms and conditions, set forth in the 1976 Commission Resolution, all of said terms, conditions, covenants and undertakings being hereby approved by the County Commissioners of St. Mary's County and adopted by the County Commissioners of St. Mary's County as and for its own, and further moved that the bonds to be issued for the remaining balance be at the same rate of interest that the typed bonds were issued for, and further that Resolution No. 76-40 of the County Commissioners be hereby adopted and signed, seconded by Commissioner Dean. All Commissioners voted in favor.

(Commissioner McKay left the meeting at 11:40 a.m.)

APPOINTMENT OF CAPTAIN GILLESPIE TO PLANNING COMMISSION

Correspondence was received from the Office of Land Use and Development stating that the previous Commanding Officer of the Naval Air Station had served on the Planning Commission as an ex-officio member and therefore the Planning Commission recommended that, since he is no longer at the Naval Air Station, he be replaced.

Therefore, Commissioner Dean made a motion to appoint Captain Charles R. Gillespie, Commanding Officer, NAS, as ex-officio, non-voting member of the Planning Commission, seconded by Commissioner Jarboe. All Commissioners present voted in favor.

CHERRY COVE CREEK

Correspondence was received from Mr. R. M. Hutchins of the Department of Natural Resources concerning the need for dredging the entrance to the Cherry Cove Creek which is in response to our letter of August 16. The Commissioners directed that this matter be referred to the County Engineer requesting him to contact DNR to set up an on-site meeting with DNR representatives and affected property owners in the area to determine how the project can proceed.

ASSESSMENT OFFICE SPACE NEEDS

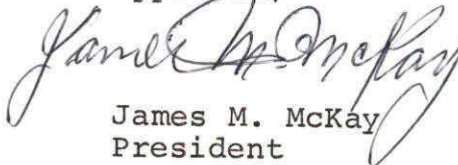
The County Administrator, as directed by the Board of County Commissioners reported on the space requests made by the Assessment Office at the Commissioners' meeting of September 9, 1976. Discussions were held with the State's Attorney and Juvenile Master to ascertain the feasibility and difficulties encountered in granting the Assessment Office request. The County Administrator explained the options available in considering the juxtaposition of the Assessment Office and State's Attorney's Office and recommended to the Commissioners that the Assessment Office be offered the recently vacated space of the Parole and Probation Office on an interim basis until such time as the planned renovations of space can be made available for the Assessment Office on the first floor, and to leave the State's Attorney and Juvenile Master Office facilities as is.

Further, the County Administrator recommended that if the Assessment Office declines this offer and carries out its intention to locate outside the Court House, the vacated Assessment Office space be renovated to accommodate the Judge of the Circuit Court and the Parole and Probation space be leased to the Office of Public Defender.

Commissioner Jarboe made a motion to accept the County Administrator's recommendation and that the Assessment Office be advised of this decision and the reasons for same, seconded by Commissioner Dean. All Commissioners present voted in favor.

The meeting adjourned at 11:58 a.m.

Approved,



James M. McKay  
President