

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, June 15, 1982

Present: Commissioner George R. Aud, President
Commissioner Larry Millison, Vice-President
Commissioner Richard D. Arnold
Commissioner Ford L. Dean
Commissioner David F. Sayre
Edward V. Cox, County Administrator
Judith A. Mullins, Recording Secretary

Prior to the start of their regular meeting, the Board of County Commissioners went to the Ribbon Cutting Ceremony for the recently completed renovations at District Court.

The meeting convened at 10:00 a.m.

APPROVAL OF VOUCHERS

Commissioner Millison moved, seconded by Commissioner Aud, to approve payment of the vouchers as submitted by the Director of Finance. Motion unanimously carried.

GREAT MILLS BASEBALL TEAM

Present: Sal Raspa, Principal, Great Mills High School
Athletic Staff, " " " "
Great Mills High School Baseball Team

The Commissioners expressed their congratulations to the Great Mills High School Team for a successful season and for winning the Maryland Class B Championships.

In turn, the Great Mills Baseball Team presented each of the Commissioners with a small baseball trophy.

RESOLUTION NO. 82-09

ST. MARY'S PRESS - MCGREGOR-WERNER
MARYLAND INDUSTRIAL LAND ACT LOAN (MILA)

Present: Dave Morgan, Economic Development Coordinator

As a follow up to last week's discussion, Mr. Morgan presented a proposed Resolution authorizing a loan from the Department of Economic and Community Development in an amount not to exceed \$150,000 to be used to finance the construction of a shell building for St. Mary's Press (McGregor-Werner).

After discussion, Commissioner Dean moved, seconded by Commissioner Arnold, to approve and sign Resolution No. 82-09 as presented.

Further, Mr. Morgan explained that St. Mary's Press is losing money while awaiting for approval of all the documentation related to the loan for the construction of the addition. Therefore, it was requested that the County advance funds to St. Mary's Press prior to receipt of the check from DECD for the MILA Loan for the construction of the shell building.

Later in the meeting after discussion, Commissioner Dean moved, seconded by Commissioner Millison, that inasmuch as the County holds the title to the St. Mary's Press property, the Commissioners approve the advancing of funds; however, that: (1) McGregor-Werner not serve as County agent; (2) a draw schedule of funds be developed prior to the disbursement of

any of the loan proceeds; (3) a McGregor-Werner representative should certify that the work has been done to their satisfaction, but there should be an agent by the County to actually receive the request for disbursement and should periodically inspect the premises to determine that the work is progressing on schedule; (4) on the certification of McGregor-Werner and the recommendation of the County Engineer that the work has been completed in accordance with the draw schedule. Further, that there be a release of liens obtained from suppliers and sub-contractors from every draw on the materials and labor at the end of the project prior to final disbursement. The County is also to be insured relative to hazard and liability. Motion unanimously carried.

It was noted that this should not be considered a county project with respect to the bid process.

With respect to the naming of the County agent, the County Administrator recommended that the County Engineer, John Norris, be so designated. The Commissioners gave their concurrence.

INTERIM ALLOCATION POLICY
PINE HILL RUN SEWAGE TREATMENT PLANT
WILDEWOOD SUBDIVISION, NEIGHBORHOOD III

Present: Frank Gerred, Director, Office of Planning & Zoning

With regard to the referenced policy whereby the Commissioners must give approval for hookup request above 20, Mr. Gerred advised that the Planning Commission has approved a 36-unit condominium for Wildewood Subdivision, Neighborhood III, Cluster 3. Therefore, the Board's approval is needed for hookups for the 16 additional units.

Commissioner Millison moved, seconded by Commissioner Arnold, to approve the request. Motion carried, with Commissioner Dean abstaining.

MEETING WITH CAPT. ROBERT I. HEISNER
NEW NAS COMMANDING OFFICER

The Commissioners agreed to invite the new Naval Air Station Commanding Officer, Capt. Robert I. Heisner, to an upcoming Commissioner meeting to discuss matters of mutual interest and requested the County Administrator to make the necessary arrangements.

BUDGET AMENDMENT NO. 82-56
OFFICE OF PURCHASING AND LOGISTICS

The County Administrator presented the referenced Budget Amendment recommended for approval by the Budget Officer as follows:

Increase Account No. 1057-31010 (Office Communications (Equipment-New) by \$1,364.

Decrease Account No. 1057-27510 (Copy Center Supplies) by like amount.

Commissioner Sayre moved, seconded by Commissioner Dean, to approve Budget Amendment No. 82-56 as recommended. Motion unanimously carried.

RAILROAD RIGHT-OF-WAY AGREEMENT

The County Administrator presented a Railroad Right-of-Way Agreement dated June 7, 1982 by and between the Board of County Commissioners of St. Mary's County and Southern Maryland Electric Cooperative, Inc. and Joseph D. Clarke allowing ingress and egress across the railroad right-of-way on his property in the 6th Election District.

Commissioner Sayre moved, seconded by Commissioner Arnold, to approve and authorize Commissioner President Aud to sign said Agreement. Motion unanimously carried.

ENVIRONMENTAL COMMITTEE
24D HERBICIDE SPRAYING

The County Administrator reviewed correspondence dated June 8, 1982 from Walter Raum, Chairman of the Environmental Committee, advising that the State has ruled that there is insufficient evidence to ban the 24D Herbicide Roadside Spraying in St. Mary's County as had been suggested by Erik Jansson at a past meeting. Therefore, it was the recommendation of the Environmental Committee to accept this ruling; however, it was recommended that the Board of County Commissioners request St. Mary's College to set up a scientific study over a certain amount of years to investigate the effects of herbicide spraying upon the waterways of St. Mary's County.

Commissioner Dean moved, seconded by Commissioner Arnold, to accept the Environmental Committee's recommendations. Four Commissioners voted in favor, with Commissioner Sayre voting against. Motion carried.

AIRPORT COMMISSION
CONSTRUCTION OF T-HANGARS

The Commissioners reviewed correspondence from the Airport Commission dated June 10, 1982 requesting the Board of County Commissioners' approval to advertise for proposals from interested parties to construct T-Hangars at the St. Mary's County Airport at their own expense and further requesting that the County provide engineering and administrative services.

The Commissioners gave their concurrence.

RESOLUTION NO. 82-7
ST. MARY'S HOSPITAL BONDS OF 1982

RESOLUTION NO. 82-8
METROPOLITAN COMMISSION
BOND ANTICIPATION NOTES

Present: Joseph P. O'Dell, Director, Budget & Data Services
Ed Clark, Piper & Marbury (Bond Counsel)
David Funk, " " " " "
Peter Lambert, Administrator, St. Mary's Hospital
Larry Petty, Director, Metropolitan Commission

Resolution No. 82-7

Mr. Clark presented and explained the Resolution pertaining to the issuance and sale of \$13,915,000 of general obligation bonds to be designated as County Commissioners of St. Mary's County St. Mary's Hospital Bonds of 1982 to be issued and sold for the construction of the proposed new hospital. Attached to the Bond are: Exhibit A - Loan Agreement and Exhibit B- Mortgage.

After discussion, Commissioner Dean moved, seconded by Commissioner Millison to approve Resolution NO. 82-7, thereby approving the Loan Agreement and Mortgage attached thereto. Motion unanimously carried.

Resolution No. 82-8

Further, Mr. Clark presented the Resolution approving the issuance and sale of Bond Anticipation Notes in an amount of \$5,710,000 which has been recommended for approval by the Metropolitan Commission.

Commissioner Dean moved, seconded by Commissioner Arnold, to approve the appropriate Resolution for the St. Mary's County Metropolitan Commission Bond Anticipation Note Issuance. Motion unanimously carried.

LT. WILLIAM MIEDZINSKI
MARYLAND STATE POLICE

Lt. Miedzinski appeared before the Commissioners to formally advise the of his retirement effective June 30, 1982, and to thank the Board for the excellent working relationship he has shared with them.

In turn, the Commissioners expressed their appreciation for his cooperation and professionalism during the years they have worked with him.

PROCLAMATION NO. 82-30
YOU AUTO BUY MONTH

Present: Webster Bell, Bell Motor Company

The Commissioners presented the referenced Proclamation declaring June as "You Auto Buy Month" in St. Mary's County.

COUNTY ENGINEER ITEMS

Present: John Norris, County Engineer

NOTIFICATION OF GRANT AWARD
WATERWAY IMPROVEMENTS
ST. GEORGE'S CREEK DREDGING

The County Engineer advised the Commissioners that Notification of Grant Award was received from Waterway Improvements dated June 7, 1982 in the amount of \$105,000 for the St. George's Creek Dredging project.

NOTIFICATION OF GRANT AWARD
WATERWAY IMPROVEMENTS
FACILITY IMPROVEMENTS AT BUSHWOOD WHARF

The County Engineer advised the Commissioners that Notification of Grant Award was received from Waterway Improvements dated June 1, 1982 in the amount of \$25,000 for facility improvements at Bushwood Wharf.

APPLICATION FOR WATERWAY IMPROVEMENTS
McINTOSH BRIDGE

The County Engineer presented the referenced Application for a permit for reconstruction of McIntosh Road Bridge over McIntosh Run.

The Commissioners gave their concurrence to approve and authorize Commissioner President Aud to sign said Application.

VOUCHER NO. 042350
PROJECT NO. SM 81-1-7
WILLOW RUN SUBDIVISION

The County Engineer requested approval of the referenced voucher payable to Raymond Woodburn in the amount of \$24,978.75 representing Estimate No. 2 on the Rental Services Contract for the referenced project.

Commissioner Aud moved, seconded by Commissioner Arnold, to approve payment of the referenced voucher. Motion unanimously carried.

BITUMINOUS CONCRETE OVERLAY PROJECT
PROJECT NO. SM 82-1-15

Mr. Norris presented an Agreement by and between the Board of St. Mary's County Commissioners and SOMAR Paving Corporation for the Bituminous Concrete Overlay of various roads in St. Mary's County.

Commissioner Dean moved, seconded by Commissioner Arnold, to approve and authorize Commissioner President Aud to sign said Agreement. Motion unanimously carried.

PROJECT NO. SM 81-1-13
HVAC RENOVATIONS - COURTHOUSE

Mr. Norris presented an Agreement by and between Ralph's Climate Control and the Board of St. Mary's County Commissioners for the work and services for the St. Mary's County Courthouse HVAC Renovations, Phase II.

Commissioner Dean moved, seconded by Commissioner Millison, to approve and authorize Commissioner President Aud to sign said Agreement. Motion unanimously carried.

EMPLOYMENT AGREEMENT
INSPECTION SERVICES
PROJECT NO. SM 82-1-15

The County Engineer presented an Employment Agreement by and between the Board of County Commissioners and Joseph N. Jarboe for inspection services to be performed for the Asphalt Overlay Project.

The Commissioners gave their concurrence to approve said Agreement and authorize Commissioner President Aud to sign same.

EASEMENT AGREEMENT
RAILROAD RIGHT-OF-WAY

Mr. Norris presented an Easement Agreement by and between the Board of County Commissioners, SMECO, and Kess-Land for the installation of rip-rap in the railroad right-of-way, for drainage purposes, south of Chancellors Run Road.

The Commissioners gave their concurrence to approve said Easement Agreement and authorize Commissioner President Aud to sign same.

SUBDIVISION BONDS

Mr. Norris advised the Commissioners that there are several subdivisions that will have bonds expiring June 30, 1982 and requested the Commissioners' direction on what action to take.

After discussion, Commissioner Dean moved, seconded by Commissioner Arnold, to authorize the County Engineer to initiate action to take possession of the posted funds (corporate bond, letter of credit, etc.) in Fenwick Manor Subdivision, Birch Manor Subdivision and a portion of the funds to cover completion of the roads in Discovery Subdivision that are substantially complete. An updated Public Works Agreement is to be obtained for the remaining roads. With regard to the other subdivisions having bonds to expire on June 30, 1982, Mr. Norris is to work with the individual developers to either have the work accomplished or to obtain extended Public Works Agreements. Motion unanimously carried.

REQUEST FOR EXPANSION OF SURFACE TREATMENT PROGRAM
AND SLURRY SEAL PROGRAM

Mr. Norris advised the Commissioners that the County had anticipated expending more in the referenced programs than the contracts called for. A savings resulted because of the low prices the County received. Mr. Norris, therefore, requested that the Programs be expanded to the limits of the established budget. The Commissioners gave their concurrence and suggested that the following roads be considered for surfacing:

1. By the Mill Road;
2. Joy Lane;
3. Buck Stone Road (to be determined if in County System)
4. Cherry Field Road.

PUBLIC HEARINGS

Present: Frank Gerred, Director, Office of Planning & Zoning
Anita Meridith, Recording Secretary

The first of a series of five (5) public hearings was opened by Commissioner President George Aud, presiding. The full complement of the Board of County Commissioners was present (unless otherwise noted).

Mr. Gerred read the public hearing notice aloud, as it appeared in the published issue of the Wednesday, May 26, 1982 Enterprise newspaper, providing due legal notification of the following hearing:

1:00 p.m.

SPEC #82-0540 - BOCA BASIC ENERGY CONSERVATION CODE

To consider adoption of the BOCA Energy Code/1978 - a compilation of model energy conservation requirements as recommended BOCA International, Inc.

Present: C. A. Wible, G.B. Wiggin, Floyd D. Owens,
Marvin Terry, Mike Rubala, R.S. Magnus.

Mr. Gerred explained that the State had adopted legislation requiring that every structure built after July 1, 1982 meet the requirements of the BOCA Code. Said Code mandates that counties having adopted the Code, certify that buildings within their jurisdictions meet the Code and those counties not adopting the Code would be enforced by the local electric company through a certification process. Staff recommended that should the County adopt the Code, the County should contract with Middle Department (electrical inspecting agency) to enforce the Code, as the County simply did not have the qualified personnel to effect inspection.

Mr. Marvin Terry of the Department of Economic Community Development Code Administration came forward and offered that the Code was a minimum requirement. He offered that following review of all plans in Annapolis, it had been ascertained that a major portion of the segment was already meeting, and in most cases exceeding, the requirements of the Code. He advised that this current Code was "a 1981 Code, however, this legislature this year passed House Bill No 748 which gives the authority to our office to establish equivalent Codes and we are in the process now of doing that." Mr. Terry advised that should St. Mary's County adopt this Code, "it seems reasonable that you have the powers to enforce it. This means plans review and approval prior to a building permit being issued. If you do not adopt the Code, then each building after July 1 will have to provide a certification form to the electric utility before they can obtain permanent power." (Copies of said form were made available.)

Mr. Terry reiterated that should the County decide not to adopt same, then each building would have to go through the certification process and responsibility would lie solely with the builder, to assure that the structure meets the requirements of the energy code. This was explained as "self-certification" with penalties associated with "faults certification." Mr. Terry explained that the utility company would primarily be concerned, if the Code was unadopted, to assure that a certificate was in possession from the builder. Mr. Terry advised that there were some penalties against the utility company should they knowingly and willingly provide permanent power, realizing that a structure did not meet the energy requirements. Again, the primary emphasis would be on the builder to meet the requirements and his signature on the provided form would serve as his verification that said requirements had been satisfied.

The Board discussed the various problems and ultimate results which might occur through faulty construction and/or false certification by the builder. It was ascertained that the builder would be liable for a three (3) year period for the first owner, for any deficiency in the building's specifications.

Mr. Wible and Mr. Wiggin, representatives from the Southern Maryland Electric Company came forward.

Mr. Gerred reflected that the subject legislation provided that "any building finished or completed after July 1: would fall under this Code, which in fact meant that he could have issued the building permit as early as two years prior. Mr. Terry responded that there was a waiver process in that the law specified that if a significant commitment had been made prior to January 1, 1982, then a waiver may be obtained. He advised that at present, the Administration was in the process of writing guidelines for a number of questions which were being raised by the various counties.

Commissioner Millison and Sayre both expressed concern that an adoption of this Code should not add any additional cost to the homeowner/buyer in terms of costs derived from imposed energy standards.

Commissioner Arnold questioned whether an adoption of this Code could in any way result in increased costs to the consumer, resulting from additional personnel, inspectors or as a result of inspection costs to the consumer to replace faulty equipment or anything of that nature. Mr. Wiggin, SMECO representative

responded negatively and advised that no inspection would be incurred for replacement, for example, of a water heater. However SMECO could provide that consumer with information which would aid in the selection of the best possible energy saving hot water heater. This information would be supplied free and would be made available upon request.

Mr. Wible advised that he was in receipt of a memorandum from the Department of Economic and Community Development which referenced "all new buildings constructed after July 1, 1982 to meet the requirements of the energy code." Mr. Wible asked if that law had changed to include buildings constructed after July 1, rather than completed. Commissioner Millison asked if the County adopted this Code which term would the County adopt. Mr. Gerred advised that the Commissioners had the "right to set the date when an Ordinance becomes effective, but I don't know that in the interim, will change what the State requires and I would have to check that out with the attorney."

Commissioner Millison voiced concern with imposing this Code on someone who had started building prior to adoption and consequently offered that the populace should be provided/served notice of this impending Code, prior to the County's adoption of same.

Commissioner Dean summarized the proposal as presented, understanding that State Law provided that any new inhabited building, either "constructed" or "started" (to be verified) after July 1, 1982, must be built according to the BOCA Energy code. There appears to be two ways in which the County could insure that a building thus constructed meet the Code: Through a self-certification program or through an inspection program. Should the County decide on the latter, the County could do this "in-house" or retain the services of someone to provide that service. Commissioner Dean offered that he certainly could find no fault with the intent of the legislation in adoption of the Code, as it was certainly in the national interest to conserve energy; however, he was of the opinion, "that it is more likely to be accomplished, that is, the building being constructed, incorporating these conservation measures, if there is an inspection procedure, rather than a self-certification."

The Chair inquired whether anyone presented wished to speak in favor or opposition.

Mr. Floyd Owens, speaking as a consumer, advised that the first thing he looked at in a new house was the type and thickness of insulation, storm windows, etc. and most home buyers, he felt, followed this same exercise. He felt that this Code was "just more needless legislation." He also questioned if this would increase costs to the builders in the County and questioned whether the builders in St. Mary's County were even aware of this legislation, as "to my knowledge, there's been nothing publicized about it."

Commissioner Arnold felt that the terminology in the Code was somewhat confusing and questioned, for example, how many builders would know what the "thermal transmittance of the fenestration area" meant. Commissioner Dean agreed that the language was somewhat complex and that same should be simplified in order that a builder could readily determine that his construction practices would meet the requirements.

There was minor discussion among the Board as to interstate transport and inspection requirements for modular units being brought into Maryland from various states.

Mr. Ralph Magnus remarked that it had not been made clear what the responsibility was for the person buying a home, finding some years later that the home did, in fact, not meet the BOCA standards. He questioned what responsibility the homeowner

would have at that time and what type of repercussions could result. Mr. Magnus was advised that following a three-year period, there were no repercussions, except that the owner of the property "wastes energy and pays for it."

Mr. Terry advised that the public was "pretty sophisticated" about energy conservation today and he pointed out that the certification form was prepared in quadruple, the original being filed with the utility company, copy for the builder, copy sent to the Department of Economic and Community Development and the fourth copy to the purchaser. Said form outlines and explains the owners rights in detail.

Mr. Gerred advised that copies of the BOCA Code would be available at both of the public libraries in the County.

Commissioner Dean offered that irregardless of what decision was made (self-certification or inspection) the County could provide a service to the consumer public, i. e. to make available at the time of issuance of a building permit, a pamphlet which would translate the BOCA Code into specific requirements, e.g. thickness of insulation in ceilings, etc. and other types of construction techniques in simple layman's language.

There being no further testimony, the hearing was closed and the matter taken under advisement by the Board.

2:00 p.m.

ZONE #81-1031 - MINNIE MARIE WILHOIT

Request to rezone approximately 1.011 acres, located on Tax Map 34, Block 2, Parcel 191, West of Md. Rt. 235 and South of St. John's Road, 6th Election District, from R-1, Residential, to C-1, Commercial Intensive.

Present: Frank Gerred, Robin Guyther, Anita Meridith, William C. Thompson, Daniel Gatton, Stanley Morgan, Barbara Ferrante, Minnie M. Wilhoit, Robert Taylor

Mr. Robert Taylor, representing engineer, came forward and presented for the record, the postal receipts from the registered letters sent to all contiguous property owners. (Marked Applicant's Exhibit #1)

Mr. Robin Guyther, Assistant Planner, OPZ, read the public hearing notice aloud as they appeared in the published issue of the Wednesday, May 26, 1982 Enterprise newspaper with respect to all the following rezoning Hearings and appeal actions before the Board this date:

Mr. Taylor advised that those postal receipts constituted all contiguous property owners within 200 feet of the subject property. He also affirmed that the property had been legally posted.

Mr. Taylor reflected that his letter of justification outlined his reason for the requested rezoning; i.e., mistake in the Comprehensive Land Use Plan for the "Sandy Bottom area." He stated that the subject property was located on the edge of an existing C-1 District. He elaborated on the permitted uses under the C-1 District and advised that there were many nonconforming existing uses in the area which would fall under the C-1 and

C-2 zoning classifications. Mr. Taylor advised that the intent of the C-1 request was to enable the property to remain "in conformance with the commercial neighborhood...." He contended that while the property did house a partially constructed building, the property had never been used as residential. The property abuts another property which houses Toots' Bar and an existing trailer. The property is comprised of approximately one (1) acre and has a drainage easement. A section of the parcel was "taken" by the State Highway Administration for the dualization of Rt. 235.

Mr. Taylor reflected that "with that in mind, we feel that we could adequately serve the neighborhood needs by supplying a site today for C-1 use, whereas, the C-1 use and C-2 mixture in the neighborhood, will stay that way, I'm sure and to compensate for that C-2 use, we are asking, right now, for a rezoning on this to a C-1 category."

Mrs. Wilhoit remarked that she was quite surprised at the comments made in the local paper last week with respect to the deterioration of the property. She felt that while she had not pursued any development on the property, "...it has been kept clean...." Mrs. Wilhoit advised that Mr. Gatton, her contiguous neighbor had talked with her about buying the lot and she advised him at that point, of her desire to have the property zoned commercial. She advised that Mr. Gatton had told her that his property was also up for sale and that he would be interested in selling his property for commercial as well, if he could get it rezoned.

The Chair inquired if anyone wished to speak in favor. There was no response. The Chair inquired if anyone wished to speak in opposition.

Mr. William Thompson advised that he lived "right across the street" and was opposed because of the added traffic that would be brought into the area, the noise factor, when considering the possible uses that could be put on the property. He felt that "this is a bad location for more traffic...that's a very bad spot right and I think to have more traffic in the area, would just become more dangerous, I think."

Mr. Bill Gatton, contiguous property owner, affirmed that he had at one point agreed that he would be interested in selling his property as commercial; however, he had been unable to sell his house and, therefore, took it off the market. He advised that several weeks prior, there had been an attempted burglary at his home and he felt that if this property were rezoned commercial, this would increase the possibility of such activity. He also felt that a commercial rezoning of the property, would decrease the residential property values in the area.

Mr. Stanley Morgan offered that he lived "directly across the street." Mr. Morgan advised, "I have a nice home there that I wouldn't want to have a business right out there in front of me ." "I think this is the wrong place for it." Mr. Morgan elaborated on the existing commercial businesses in the area and felt that additional C-1 property was not needed in this area.

Mrs. Barbara Ferrante (owns property next to the Gatton parcel) spoke in opposition and offered "It's very close to our houses and the traffic would be too much."

Staff advised of the existing commercial zonings in the area and noted that this property would front on the existing Rt. 235 and the north bound lane of the proposed dualized 235. Mr. Gerred injected that the property would not have access to the new Rt. 235. Mr. Taylor at this point, advised that he had received a copy of the dualization plans. He emphasized that the only place it showed a denial of access was within 50 feet of a major intersection. Thus, based on that information, it would now appear that there was not a complete denial of access to new Rt. 235 from this property.

Mr. Guyther, at this point, formally entered the Planning Commission record into this hearing record.

There being no other testimony, the hearing was closed and the Chair noted that the Board would take the matter under advisement and render a decision within two (2) weeks.

2:30 p.m.

ZONE #81-1482 - MARVIN C. FRANZEN

Request to rezone approximately 50,625 sq. ft. of property located at the northeast corner of Md. Rt. 235 and Rue Purchase Road, 8th Election District, Tax Map 43, Block 2, Parcel 384, from R-1, Rural-Residential, to C-1, Moderately Intensive Commercial.

Present: Frank Gerred, Robin Guyther, Anita Meridith, Marvin Franzen, Agnes M. Barnes, Dabney C. Winston, Viola Cutchember, Elsi K. Pierson, Bertha M. Johnson.

Commissioner Millison excused himself from participation in this case, stating that he had a possible conflict of interest.

Mr. Franzen presented for the record, marked Applicant's Exhibit #1, the postal receipts from the registered letters of notification which he testified constituted all contiguous property owners within 200 feet of the subject property. The property was legally posted.

Mr. Guyther entered the Planning Commission record of this consideration into the County Commissioners' formal public hearing, at this point.

Mr. Guyther pointed out that the Planning Commission's recommendation had been for denial, finding no change or mistake.

Mr. Franzen offered that the area comprised many commercially zoned properties. He felt that there had been a mistake in the original zoning of the property, noting, "At the time the zoning was done very quickly and it wasn't really done, I think, intersections of highways and such like that, could have been, if they'd taken a little more time, maybe, been zoned properly and, you know, for more commercial type use." Mr. Franzen remarked that the zoning "took place before the dual lane highway was constructed." The subject parcel was described as "a fairly narrow strip, 300 foot frontage on the highway and frankly, would be very marginal type property for residential homes."

The applicant elaborated on the other commercial uses in the area, specifically the ADF and recalled that there had been numerous rezonings in this subject area to C-1, Commercial.

Mr. Franzen offered that several clients were interested in the property (doctor and a lawyer) and were seemingly interested in building a professional office building. He reflected that a doctor, under the present zoning, could construct a building on the property, however, anyone else wanting to put an office building on the same property, would require a C-1 zoning.

The applicant advised that due to the small size of the property, a "good bit" of the property would be required for the septic system and that the septic would probably be placed in the back with the building being constructed as close to the front of the property as possible. In view of same, Mr. Franzen felt that the residential neighborhood would not be directly affected.

Mr. Franzen referenced a letter incorporated in the subject file, from Planning Commission member J. Frank Raley, Jr., who had abstained from voting in this matter. Said correspondence offered Mr. Raley's reason for abstention. Correspondence was read aloud.

Mr. Franzen questioned the prior Board's reasoning with respect to the zoning of his property and stated that he felt that "the commercial zoning was arbitrarily stopped at that particular spot."

Commissioner Aud questioned whether anyone present wished to speak in favor. There was no response. The Chair inquired whether anyone wished to speak opposed.

Mrs. Agnes M. Barnes spoke in opposition and offered her repeated argument that "big business is pushing the little person out." Mrs. Barnes related that there were many people living in this small residential community which were retired and had lived there over 50 years. She asked that the Commissioners seriously consider the effects that this proposed commercial use would have on the lives of these residents and asked that the Commissioners consider those residents "peace of mind" when deliberating their decision with respect to this application.

Mrs. Viola Cutchember spoke in opposition and advised that "This is my home. I will never have another." Mrs. Cutchember voiced concern with the possible uses that could be made of the property, were a C-1 zoning classification approved. She felt that by the applicant's own testimony, that the placement of the septic system on the subject parcel might endanger her well, as "this would be very near my property." She also felt that the buffer of trees, formerly eluded to by the applicant, would not provide an adequate buffer as "it wouldn't do a thing."

Mr. Dabney C. Winston advised of the location of his home with respect to the subject parcel. Mr. Winston stated that he had spent many years of his life "getting ready for my retirement home "ruined" by the presence of an adjacent commercial business. In conclusion, Mr. Winston stated, "I am strictly against it."

Mrs. Elsie K. Pierson stated that while she did not live in this area, she would speak in opposition to the request.

Bertha M. Johnson, speaking on behalf of her mother, a contiguous property owner, Mrs. Laura Kane, voiced opposition to the rezoning request.

There being no further testimonies, the Chair advised that the hearing would be closed, with the matter being taken under advisement.

Mrs. Barnes asked that all of the contiguous property owners be sent a copy of the Commissioners' decision. The Recording Secretary will send said notification via Mrs. Agnes M. Barnes to all present this date.

Hearing closed.

3:00 p.m.

MSUB #82-0104 - USHER'S SUBDIVISION

Appeal of Planning Commission's decision which denied approval of a minor subdivision located off an unimproved right-of-way, in the Second Election District, Tax Map 57, Block 3, Parcel 132.

Present: Frank Gerred, Robin Guyther, Anita Meridith, Larry Day, Tom Usher, Helen Coogan.

Mr. Guyther advised that under a minor subdivision, the Planning Commission could allow an applicant to create up to eight lots and not put in a public road. He advised that with respect to this particular case, the problem centered around the location of the subdivision itself. There is a 60 foot right-of-way from Frog's Marsh Road to Flat Iron Road. Said road is platted on the tax maps with ownership seemingly a public way.

A location map of the property was reviewed with Mr. Guyther noting that the property to the right was not a right-of-way, in that it was completely wooded and unpassable. From the property to the left, back to Flat Iron Road, there is a gravel road which just sort of "meanders through the woods." The Planning Commission had concern with creation of a minor subdivision on an unimproved road or "whatever." Other people were found to have access to the subject right-of-way which added to the existing problem.

Mr. Guyther stressed that the Planning Commission did not want to approve the creation of a minor subdivision which would not have a public road, off of a nonimproved right-of-way which gave access to other properties, exceeding the eight (8) lot limitation.

Mr. Larry Day, representing engineer, offered that many years ago, there was a road called Old West St. Mary's County Road and Brambles Road which went from Flat Iron Road to Frog's Marsh Road. However, at present, only remains of the old road bed can be found. Mr. Day related that the lower end was impassable. He testified that he had surveyed the entire road bed and has ascertained that the upper part also contained an existing gravel road which was not the same. He explained that in some places, only the old road bed existed and in others there was an existing gravel road. He explained "We created an eight-lot minor subdivision, utilizing Old West St. Mary's Road because my client, who is buying the property, has an agreement from the people who are selling him the property, that they have to furnish him with a two-way traveled road into his property, utilizing this Old West St. Mary's Road, which they have a deed to and a chain of title."

The Commissioners reviewed the plats and familiarized themselves with the property.

Mr. Day advised that he had placed a disclosure statement on the plat which noted that it would be a rural road, and not be maintained by the County until it was brought up to County standards and that the lot owners would maintain the roads at their expense.

Discussion by the Board ensued and Commissioner Millison felt that the applicant's request fell within the context of the law and the fact that other people might come behind them with similar requests had no bearing on this request.

Mr. Gerred offered that the Planning Commission, in this instance, had discussed the problem at great length and not wanting to set a precedent, was seeking direction from the Commissioners.

Commissioner Aud inquired whether anyone present wished to speak either in favor or opposition. There was no response.

The Chair reflected in this instance, that an approval of this application would not landlock any landowners, as all had access either on Frogs Marsh or Flat Iron Roads. Minor discussion by the Board continued and it was the members consensus that there did not appear to be an access problem.

The Chair advised that the matter would be taken under advisement and the Board would act within two weeks.

3:30 p.m.

MSUB #82-0321 - AL WATSON

Appeal of Planning Commission's decision which denied subdivision approval for a minor subdivision to be located on a substandard right-of-way in the Second Election District, Tax Map 58, Block 20, Parcel 180.

Present: Frank Gerred, Robin Guyther, Anita Meridith, Robert Taylor, Al Watson.

The plat was posted for review and Mr. Guyther explained that with respect to this appeal, it was a somewhat similar situation as the case heard previously, in that the applicant wished to create a minor subdivision off of an unimproved right-of-way. The difference in said right-of-way, was that it was owned by two separate individuals, one of which was not the applicant.

Mr. Guyther advised that during discussion by the Planning Commission, it was determined that three other people also use the road to gain access to their homes. In view of that determination, the Planning Commission felt that an approval should not be given for more than five additional lots. The request was discussed at great length by the Planning Commission and following staff's research, it was ascertained that three (3) individuals did, in fact, utilize the road as access to their property.

Mr. Guyther advised that another concern related to the applicant's provision of additional property to complete the 50 foot right-of-way, was owned in part, by the Chesapeake Company and part by Mrs. Mary Calloway. Efforts to secure the additional 20 feet to satisfy the 50 foot right-of-way requirement by the applicant were unsuccessful.

Mr. Gerred advised, "You have a less than standard right-of-way and in the last instance, you have a larger than standard right-of-way. Other than that, the circumstances are approximately the same, in that it is a pre-existing right-of-way road, lane whatever you want to call it." Mr. Gerred advised that again, in this instance, the Planning Commission considered that additional people were living on that pre-existing road.

Commissioner Millison reflected on the former Board's thinking with respect to adoption of the requirements for minor subdivision roads. He felt that perhaps the Board at this juncture, might want to consider a re-evaluation of the road requirements and perhaps consider changing the requirements to effect a 30-foot width, as opposed to the existing required 50-foot width.

The Chair inquired if anyone present wished to speak to this appeal action. There was no response.

Mr. Robert Taylor, representing engineer, advised that an effort has been made to secure the property (for right-of-way) from both Mrs. Calloway and the Chesapeake Company; however, both had met with negative response.

The Commissioners collectively agreed to defer action on this matter for two weeks. and take the case under advisement.

NON-CONFORMING USE

PCNU #81-0748 - CHARLOTTE HALL LUMBER COMPANY J. MERTON JARBOE

Requesting expansion of a nonconforming use of less than 50% to permit construction of a 32' x 25' dry kiln. The property contains approximately 6.4 acres, located on Md. Rt. 5, in the Fifth Election District on Tax Map 4, Block 4, Parcel 12, and is currently zoned C-2, Commercial, Extensive Highway Oriented.

Present: Frank Gerred, Robin Guyther and Anita Meridith

Mr. Gerred advised that the applicant was requesting expansion of this nonconforming use of less than 50% to permit construction of the 32' x 25' dry kiln.

The motion passed unanimously and the expansion was approved.

DECISIONS

ALPD #82-0213 - EDWARD P. MONAHAN

Request to establish an Agricultural Land Preservation District located at the end of Far Cry Road on the Chesapeake Bay in the Eighth Election District on Tax Map 52, Block 23, Parcel 30. The property contains approximately 108 acres and is currently zoned R-1, Rural Residential.

Present: Frank Gerred, Robin Guyther, Anita Meridith

Mr. Gerred offered a brief summation of the history of this application and advised that the request had received

a favorable recommendation from the local Agricultural Board, staff and Planning Commission. The County Commissioners held a public hearing on the application on May 18, 1982.

Commissioner Millison moved, seconded by Commissioner Sayre, to forward a favorable recommendation for the establishment of the subject property of Edward P. Monahan for an Agricultural Land Preservation District to the State Board.

The motion passed unanimously.

ZONE #82-0040 - WILLIAM R. WIRTH
Karen H. Abrams, Attorney

Request to rezone 6.8 acres of a 167.52 acre parcel from R-2, Low Density Urban Residential, to C-2 Extensive Highway Commercial. The property is located on Maryland Route 246, Great Mills Road, in the Eighth Election District on Tax Map 51, Block 8, Parcel 384.

Present: Frank Gerred, Robin Guyther, Anita Meridith

Commissioner Millison excused himself from participation in this matter.

Mr. Guyther recalled that the Planning Commission recommended denial.

Commissioner Dean stated that following his review of the entire record, he could find no basis to disagree with the staff and Planning Commission's recommendation and therefore, moved, seconded by Commissioner Sayre, to deny the application and thereby instruct the County Attorney to draft the appropriate Resolution to reflect those findings, as found within the record made by both staff and the Planning Commission.

Question was called and Commissioner Arnold stated that he would be in favor of the application as a rezoning of this property would enable "this venture to become a reality." Commissioner Arnold voiced that it was against his principal, to vote against something that might provide an opportunity for an individual to go into business, create jobs and provide the youngsters with a source of entertainment.

Commissioner Sayre stated that while he was not opposed to a roller skating rink, he felt this particular location was not an appropriate property for such an activity when considering the already existing traffic problem, the location of the new nursing home and the various emergency equipment which frequented the area.

Vote was called with Commissioner Dean, Aud and Sayre in favor of the motion and Commissioner Arnold opposed. The motion passed by a vote of three to one and the rezoning request for #82-0040 - William Wirth was DENIED.

PUBLIC HEARING
PROPOSED ETHICS ORDINANCE

Present: Edward V. Cox, County Administrator
Joseph E. Bell, II, County Attorney

The Commissioners conducted a Public Hearing for the presentation of a proposed Public Ethics Ordinance which has been developed by the County's Public Ethics Law Review Committee in accordance with Article 40A of the Annotated Code of Maryland, the Maryland Public Ethics Law. Each County in the State of Maryland is required to enact provisions similar to those contained in the Maryland Public Ethics Law regarding conflicts of interests, financial disclosures, and regulation of lobbyists. The Ordinance must be effective July 1, 1982.

The proposed Ordinance for St. Mary's County was developed by the Ethics Law Review Committee consisting of: Edward V. Cox, Joseph E. Bell, II, and John F. Slade.

Mr. Bell reviewed the proposed Ordinance with the Commissioners and highlighted the areas of importance.

After an opportunity for questions and answers, the Commissioners closed the hearing and stated that a decision will be made in not less than ten days as to the adoption of the referenced Ordinance.

OFFICE ON AGING - GRANTS

The County Administrator presented the following grants pertaining to the Office on Aging as submitted by the Senior Services Coordinator and reviewed by the Director of Budget and Data Services with action by the Board as indicated:

RSVP - FY '82 (Revised)

Commissioner Arnold moved, seconded by Commissioner Dean, to authorize Commissioner President Aud to sign the RSVP Grant for FY '82 (Revised) as presented. Motion unanimously carried.

AREA AGENCY PLAN FY '82

Commissioner Arnold moved, seconded by Commissioner Dean, to authorize Commissioner President Aud to sign the Area Agency Plan Grant for FY '82. Motion unanimously carried.

AREA AGENCY PLAN - FY '83 (REVISED)

Commissioner Arnold moved, seconded by Commissioner Dean, to authorize Commissioner President Aud to sign the Area Agency Plan Grant for FY '83 (Revised). Motion unanimously carried.

RSVP GRANT - FY '83

Commissioner Arnold moved, seconded by Commissioner Dean, to approve the submission of the RSVP Grant for FY '83 and authorize Commissioner President Aud to sign same. Motion unanimously carried.

REQUEST FOR PERMISSION TO BID
HOSPITAL AND METROPOLITAN COMMISSION BOND SALE

The County Administrator presented correspondence dated June 8, 1982 from Alex Brown & Sons requesting the County's permission to bid on the forthcoming St. Mary's Hospital Bonds of 1982 and the St. Mary's Metropolitan Commission Bond Anticipation Notes - 1982 Series.

Commissioner Dean moved, seconded by Commissioner Arnold, to grant permission as requested. Motion unanimously carried.

SHERIFF'S DEPARTMENT OVERTIME REQUEST

The County Administrator presented correspondence dated June 15, 1982 from the Sheriff's Department advising that the request for overtime payment in the amount of \$903.69 during the recent "drug bust" is not in his budget.

After discussion, the Commissioners agreed to allocate funds in the amount of \$903.69 as requested, source of funds to be determined by Budget Officer.

EXECUTIVE SESSION

Present: Joseph E. Bell, II, County Attorney
Clark Raley, State's Attorney

The Commissioners agreed to meet in Executive Session in order to discuss matters of litigation. The Session was held from 4:45 p.m. to 5:45 p.m.

The meeting adjourned at 5:45 p.m.

Approved,


George R. Aud
President