

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, October 5, 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. Spalding, Recording Secretary

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

EXECUTIVE SESSION

Present: John Norris, County Engineer
Joseph E. Bell, II, County Attorney
Eddie Wettengel, Developer, Wildewood Subdivision
Tommy Wettengel
James Kenney, Attorney, Wildewood Subdivision
H. Duncan Creelman, Insurance Associates, Inc.

The Commissioners agreed to meet in Executive Session in order to discuss a matter of potential litigation. The Session was held from 9:05 a.m. to 9:45 a.m.

APPROVAL OF VOUCHERS

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

"STOP WORK ORDER"
HELEN ESTATES
HELEN FARMETTES

Present: John Norris, County Engineer

Mr. Norris advised the Commissioners that the bonds and Public Works Agreement for the referenced subdivisions expired October 1, 1982. The developer is currently paving Helen Estates. However, there is no resolution to the citizens request for the construction of the streets in Helen Farmettes and the developer is requesting an extension. In keeping with the County's policy, Mr. Norris recommended that the Board issue a "Stop Work Order" for the issuance of building permits for both subdivisions so that the Permits Office would refer all requests to the Board of County Commissioners for action agreed with the recommendation and authorized the Stop Work Order to be issued, effective this date.

ACCEPTANCE OF DEED
BIRCH MANOR SUBDIVISION, SECTION III

Present: John Norris, County Engineer

Mr. Norris presented a Deed dated November 30, 1982 by and between Hugh Allston, Jr. and Helen C. Allston and the County Commissioners of St. Mary's County accepting the following roads in Birch Manor Subdivision, Section III, into the County Highway Maintenance System: Cedarwood Court, Tanglewood Court, Birchwood Court, and Birch Manor Drive. Mr. Norris advised that the County was the recipient of a settlement by the insurance company for the completion of the construction work.

The Commissioners gave their concurrence to approve and accept said Deed.

EXTRA WORK AUTHORIZATION
COURTHOUSE CHILLER

Present: John Norris, County Engineer

Mr. Norris presented Extra Work Authorization No. 1 in the amount of \$870 payable to Ralph's Climate Control for the following work:

1. Construction of concrete pad for chiller;
2. Extension of compressor warranty.

The Commissioners gave their concurrence in approving payment of said Extra Work Authorization.

MATTAPANY ROAD

Present: John Norris, County Engineer

Mr. Norris advised the Commissioners that correspondence has been received from Harry Edwards, a property owner on Mattapany Road, agreeing to the drainage improvement work. Mr. Norris advised that the Mattapany Road Construction Project Account has been closed out and therefore requested approval for funds to be taken from the Asphalt Overlay Program Account.

The Commissioners gave their concurrence.

SENIOR SERVICES CENTER
PROJECT NO. SM82-4-7

As a follow up to last week's discussion regarding funding of Alternate #1 (Toilet Rooms) and Alternate #2 (Food Service) for the expansion of the Senior Services Center, Commissioner Aud moved, seconded by Commissioner Dean, to approve the additional funding in the amount of \$35,300. The Director of Budget and Data Services is requested to make a recommendation as to the source of the additional funding. Motion unanimously carried.

SUPPLEMENTAL AGREEMENT
CONTROL AND ERADICATION OF JOHNSONGRASS

The County Administrator presented a Supplemental Agreement by and between the Department of Agriculture and the Board of County Commissioners of St. Mary's County for the control and eradication of Johnsongrass.

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

OFFICE CLERK II POSITION
OFFICE OF PLANNING AND ZONING

As recommended by the Personnel Officer in a memorandum dated October 4, 1982, Commissioner Millison moved, seconded by Commissioner Sayre to authorize the advisement to fill the vacancy of the Office Clerk II position, Grade 7, created by the resignation of Lana Orr. Motion unanimously carried.

BENEFITS COUNSELOR
OFFICE ON AGING

As recommended by the Personnel Officer in a memorandum dated October 4, 1982, Commissioner Millison moved, seconded by Commissioner Sayre, to authorize the advertisement to fill the vacancy of the Office Clerk II position, Grade 7, created by the resignation of Lana Orr. Motion unanimously carried.

RESOLUTION NO. 82-21
EXHIBIT NO. 1
AGREEMENT TO ISSUE BONDS

The County Administrator presented Exhibit No. 1, Agreement to Issue Bonds, dated October 24, 1982 by and between Board of County Commissioners of St. Mary's County and William Reeves Mattingly.

The Commissioners gave their concurrence in approving and signing said Agreement.

INTERIM NOTIFICATION OF GRANT AWARDS
OFFICE ON AGING

The County Administrator presented the following Interim Notification of Grant Awards for the Office on Aging:

Title III-B	-	\$11,030
Title III-C-1	-	\$15,057
Title III-C-2	-	\$ 2,652

Commissioner Dean moved, seconded by Commissioner Arnold, to approve and authorize Commissioner President to sign said Interim Notification of Grant awards, contingent upon review by the Director of Budget and Data Services. Motion unanimously carried.

ZONING AMENDMENT RESOLUTION
ACADEMY HILLS
ZONE #82-0002

(Application to rezone Parcel 71, as shown on Block 240 of Tax Map 32, in the Third Election District, containing 80.19 acres, more or less, from R-1, Rural Residential, to PDR 5.0, five dwelling units per acre.)

Having conducted a Public Hearing and held decision discussion, Commissioner Dean moved, seconded by Commissioner Millison, to approve the Zoning Amendment Resolution, contingent upon checking with the Director, Office of Planning & Zoning and the County Attorney as to the absence of mention of the Development Plan and if it is required. If so, the Resolution should be so amended and returned to the Commissioners for consideration. Motion unanimously carried.

FY'82 AUDIT
WOODEN AND BENSON

Present: William Anderson, Wooden & Benson
Ron Fudge, Wooden & Benson

Representatives of Wooden and Benson appeared before the Commissioners to present and review the FY 1982 Financial Audit for St. Mary's County. A copy of the audit is available for review in the County Commissioners' Office as well as the county's public libraries.

DECISION DISCUSSIONS

MSUB #82-0104: USHER'S SUBDIVISION

MSUB #82-0321: AL WATSON

Present: Frank Gerred, Office of Planning & Zoning
Robin Guyther, " " "
Anita Meridith, " " "
Bob Taylor
Al Watson
Thomas Usher
Ron Leonard

Both considerations are appealing the Planning Commission's decision which denied a request for resubdivision.

Commissioner Millison led the discussion, noting that he was a member of the former Board of Commissioners who initiated the Minor Subdivision Regulations. He offered that the purpose of the regulations was to allow owners of record, having sufficient acreage to meet the criteria of the regulations, to develop eight (8) lots. He felt that the problems encountered with these two applications had not been envisioned and consequently, provisions were not made for that eventuality. Commissioner Millison stated that he would agree that the cases before the Commissioners were certainly cause for reconsiderations, however, he did not feel that these applicants should be penalized, as they were "grandfathered in under the old interpretation." Having stated this reasoning, Commissioner Millison moved to approve the request of Thomas Usher.

Commissioner Sayre seconded the motion and related that he had considered the request in great detail since the Board's last meeting.

Commissioner Arnold felt that at least 90% of all residents in the County were aware of the eight (8) lot minor subdivision provision and he felt that probably 90% of those residents felt that if they had a parcel of land which met the criteria in terms of acreage and zoning, that they would be entitled to a maximum of up to 8 lots. At the same time, he felt that those same residents were probably not aware of those situations, such as were evidenced by these two cases, which would prohibit their development of 8 lots. He emphasized that he didn't feel, that because the County had been remiss in the past, by not making provisions for this type of occurrence, that these applicants should be placed "under a separate situation." Commissioner Arnold stated that he would be in favor of the "applicant getting his request, as it so states." He continued that the Board should take up these concerns immediately, in an effort to address and clarify these discrepancies and "make provisions where the road situation would be more clearly addressed and the people be more informed as to what we're really trying to do."

Commissioner Arnold reflected that there were so many parcels of unpercable land in the County and considering that this land was developable, he felt the Board would be remiss to deny the application, as it would also provide jobs and broaden the tax base.

Commissioner Dean felt that the matter should be placed in its proper perspective and reflected on the history of the application, i.e. the Planning Commission denied the application, whereupon, the applicant, exercising his appeal right, brought the matter before the County Commissioners seeking a reconsideration. In effect, Mr. Dean felt that what the Commissioners were being requested, through this appeal action, was to overrule and reverse the decision of the Planning Commission. Another issue which Commissioner Dean felt deserved the Board's complete deliberation, was the question of what would be the appropriate policy for St. Mary's County with respect to development on

private roads. Having given the matter great consideration, Mr. Dean, at this point, provided to all members and parties of record, his written findings with respect to these two appeal applications.

Commissioner Millison commented that the Board's decision with respect to these matters, would be "strictly a judgement call" and as such, would be the direct result of the Board's "majority vote."

The members paused to read Commissioner Dean's position paper.

Mr. Dean stressed that in order to overrule the Planning Commission's decision, there had to be a basis of fact for doing so. He felt that the Planning Commission's decision, while not unanimous in its vote, acted appropriately in this instance, and therefore, he felt that the Board's action would be arbitrary, should it overrule that former decision. He stressed that it had been the consistent policy, as it was the intent of the Subdivision Regulations, to approve not more than 8 lots, to be served by private road. Consequently, if these matters were approved, the Board would be making an exception to that policy. He strongly emphasized that it would be a mistake to "allow large scale development on private roads," as this would create problems for those individuals residing in the subdivision and create a multitude of problems for the future to those subdivision residents, taxpayers and County Government.

Commissioner Millison added that everything possible should be done to encourage young people to buy homes in the County as this was the strength of St. Mary's County. Mr. Millison stated that it would be appropriate, in the interest of clarity and policy to consider some revision of the Minor Subdivision provisions of the Subdivision Regulations. However, he felt that the Board should not use these two subdivision applications as the pivot point to start that clarification.

Commissioner Dean felt that it would be erroneous to state that these two applicants were the pivot applications, as there had been numerous similar requests to come before the Planning Commission involving multiple parcels of record, served by a private right-of-way. He stressed that it had been the consistent policy of the Planning Commission to approve not more than 8 lots. Hence, Mr. Dean stated, "These individuals are no different from all the others that come before them. The only difference is, is that these are the first two, that I recall, that were appealed to the Board of County Commissioners." He reiterated, that it was clearly the intent of the Minor Subdivision Regulations and the private road provisions, to limit to eight lots.

Commissioner Dean stated, "In my humble opinion, I think it is a mistake, if we arbitrarily overrule the Planning Commission. If we do, we might as well bundle up the Subdivision Regulations and discard them, if we can arbitrarily overrule them. I think if you adopt regulations, you are supposed to act within those regulations and you can't pick and choose on an individual basis."

Commissioner Sayre commented that the Subdivision Regulations were adopted years ago and economic and employment conditions had undergone tremendous changes since that time. Mr. Sayre offered reason for his position, noting, "I am thinking about the building of these homes, the people that it will put to work, the boost to the economy of St. Mary's County. I think the conditions are a little bit different now, so, if these were made a few years back, they may have to be changed...the situation and the conditions are different."

Commissioner Dean emphasized that while it was true, that consideration should be given to updating of the regulations, there was, however, a prescribed procedure for change which had not been initiated or followed.

The Chairman called for the vote.

Commissioners Millison, Sayre and Arnold voted aye and Commissioner Dean voted naye. The Chair abstained, noted that he had not been present during the previous discussion and offered that he would be setting up a committee immediately to study this problem and would appoint several committee members to evaluate the situation and offer possible recommendations for changes to the regulations.

The motion passed three (3) to one (1) and the request for Thomas Usher MSUB #82-0104 was approved, thereby overturning the decision of the Planning Commission of May 10, 1982 which denied the subdivision application.

Commissioner Millison subsequently moved, seconded by Commissioner Sayre, to approve the request of Al Watson, MSUB #82-0321. The Chair abstained, with Commissioner members Millison, Sayre and Arnold voting aye and Commissioner Dean naye.

The motion passed three (3) to one (1) and the request for Al Watson was approved, thereby overturning the decision of the Planning Commission of May 10, 1982 which denied the subdivision application.

PROCLAMATION NO. 82-53
BUSINESSWOMEN'S WEEK

The Commissioners presented the referenced Proclamation designating the week of October 17-23 as National Businesswomen's Week in St. Mary's County.

PROCLAMATION NO. 82-52
COLUMBUS DAY 1982

Present: Jimmie Mora

The Commissioners presented the referenced Proclamation designating Tuesday, October 12, 1982 as Columbus Day.

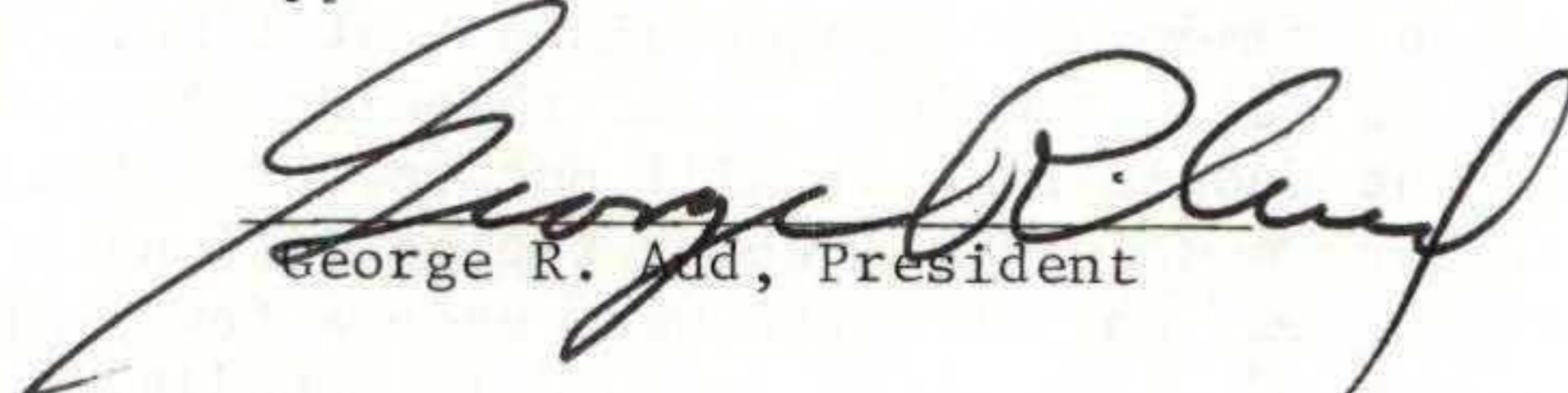
PRESS CONFERENCE

Present: Richard Polk, Enterprise
Matt Kay, WKIK

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

The meeting adjourned at 12:00 Noon.

Approved,



George R. Add, President