

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, October 26, 1982

Present: Commissioner George R. Aud, President
Commissioner Richard D. Arnold
Commissioner Ford L. Dean
Commissioner David F. Sayre
Edward V. Cox, County Administrator
Judith A. Spalding, Recording Secretary
(Commissioner Millison was not present at beginning of meeting.)

The meeting was called to order at 9:10 a.m.

APPROVAL OF VOUCHERS

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

TRICK OR TREAT ACTIVITIES

The County Administrator presented a Notice to the Citizens of the Community issuing a general warning regarding trick or treat activities because of the recent national problems of food and product tampering. The Commissioners agreed to sign and issue same.

COMMISSION ON AGING PROGRAMS AUDIT

The County Administrator advised that proposals were solicited from the three auditing firms in the County for an audit of the Commission on Aging Programs - Title B, Title III-C-1 and Title III-C-2. It was recommended that the contract be awarded to Jeffrey Wood in the amount of \$1400. Funds are available in the grant.

Commissioner Aud moved, seconded by Commissioner Arnold, to accept this recommendation. Motion unanimously carried.

BUDGET AMENDMENT NO. 82-11
OFFICE OF PLANNING AND ZONING

The County Administrator presented the referenced Budget Amendment recommended for approval by the Director of Budget and Data Services as follows:

Increase:

Acct. #001-028-514-23-32 (Postage and Freight) by \$75

Decrease:

Acct. #001-026-507-24-38 (Mileage) by \$75

Commissioner Sayre moved, seconded by Commissioner Aud, to approve the referenced Budget Amendment. Motion unanimously carried.

BUDGET AMENDMENT NO. 82-12
RECREATION AND PARKS

The County Administrator presented the referenced Budget Amendment recommended for approval by the Director of Budget and Data Services. Said Budget Amendment is for the purpose of providing budget authority to execute capital budget request projects in FY '83:

Increase Accounts for: Fifth District Park - multi use court;
Hollywood Park Expansion
Tennis Court Rehabilitation
Laurel Grove Park.

Decrease Account for: Nicolet Park Acquisition

Commissioner Sayre moved, seconded by Commissioner Aud, to approve said Budget amendment. Motion unanimously carried.

BUDGET AMENDMENT NO. 82-13
COUNTY ENGINEER

The County Administrator presented the referenced Budget Amendment recommended for approval by the Budget Officer. Said Budget Amendment is for the purpose of providing adequate budget authority based on finalized federal grants.

Increase Accounts for: McIntosh Road
McIntosh Bridge
Hollywood Shores

Decrease Accounts for: Villa Road
Mattapan Road
McIntosh Bridge
McIntosh Road

Commissioner Dean moved, seconded by Commissioner Aud, to approve the referenced Budget Amendment. Motion unanimously carried.

CLEAN UP CAMPAIGN

The County Administrator requested authorization from the Board for the allocation of \$2,000 to the community project fund for the county-wide clean-up campaign.

Commissioner Aud moved, seconded by Commissioner Arnold, to approve this allocation. Motion unanimously carried.

TUBMAN-DOUGLASS MODERNIZATION - PHASE IV

The County Administrator presented a memorandum dated October 19, 1982 from the Public Housing Coordinator, Joe Mitchell, advising that the Housing Authority proposes to apply to HUD for additional modernization funds for Tubman-Douglass in the amount of \$16,000. Federal Regulation requires that the Housing Authority advise the local political subdivision of this action and obtain endorsement.

Commissioner Dean moved, seconded by Commissioner Sayre, to authorize Commissioner President Aud to sign the endorsement of this Program. Motion unanimously carried.

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

As a follow up to last week's discussion regarding the above, Mr. Mitchell advised that approval is needed from the Board authorizing Commissioner President Aud to sign the application, when it is completed, in order to meet the November 5 deadline for submission to HUD.

Commissioner Sayre moved, seconded by Commissioner Dean, to authorize Commissioner President Aud to sign said Community Development Block Grant Application. Motion unanimously carried.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator
Frank Gerred, Director, Office of Planning & Zoning
Robin Guyther, Planner, Office of P & Z
Joseph E. Bell, II, County Attorney

The Commissioners agreed to meet in Executive Session in order to discuss a matter of Personnel (County Administrator present). Upon completion of that item, the Commissioners continued in Executive Session to discuss a matter of litigation with Messers Gerred, Guyther and Bell). The Session was held from 9:25 a.m. to 10:30 a.m.

(Commissioner Millison entered meeting - 11:00 a.m.)

INDUSTRIAL REVENUE BOND APPLICATION

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS

Present: Dave Morgan, Economic Development Coordinator
Eugene Glover, International Assoc. of Machinists & Aerospace Workers
Mr. Manners, " " " " "
Charles S. Henck, Attorney, IAMAW

Mr. Morgan advised that the Industrial Revenue Bond Review Committee has reviewed the application of the International Association of Machinists and Aerospace Workers for the issuance of Industrial Revenue Bonds. The Committee has found all appropriate documents in order and recommended the Board's approval for the issuance of the Bonds. The inducement Resolution (No. 82-26) authorizing the issuance of the Bonds and the Agreement to Issue Bonds.

After discussion, Commissioner Millison moved, seconded by Commissioner Arnold, to approve and sign Resolution No. 82-26 and the Agreement to Issue Bonds for the International Association of Machinists and Aerospace Workers. Motion unanimously carried.

MARYLAND INDUSTRIAL TRAINING PROGRAM

Present: Ray Adcock, Director, Md. Industrial Training Program
Dave Morgan, Economic Development Coordinator

Mr. Adcock appeared before the Commissioners to explain the benefits of the Maryland Industrial Training Program. It is a state-funded program providing educational training for new and existing industries. Assistance would be given in recruiting, setting up training materials and conducting classroom training.

After discussion, the Commissioners requested that Mr. Adcock work with Mr. Morgan, Economic Development Coordinator, to obtain a list of contractors from the Base and inform them of this educational training opportunity.

OFFICE OF COUNTY ENGINEER ITEMS

Present: John Norris, County Engineer

CONTRACT FOR SENIOR CENTER CONSTRUCTION

Mr. Norris presented the Contract Agreement by and between Bru-Mac, Inc. and the Board of County Commissioners of St. Mary's County for the construction of the Garvey Senior Center, to be located adjacent to the Office on Aging building at the Governmental Center.

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

CALCIUM CHLORIDE - McINTOSH/BRIDGE

The County Engineer presented the bid tally sheet for the referenced project and recommended awarding the bid to B.K. Miller Co., Inc. at \$195 per ton. Commissioner Sayre moved, seconded by Commissioner Arnold, to accept this recommendation. Motion unanimously carried.

PROJECT NO. SM 83-6-2

EXTERIOR PAINTING OF LEONARD HALL GYMNASIUM

Mr. Norris presented the bid tally sheet for the referenced project and recommended awarding the bid to Buckler Decorators in the amount of \$3,745.00. Commissioner Sayre moved, seconded by Commissioner Millison, to accept this recommendation. Motion unanimously carried.

TIMBERING CONTRACT - ST. ANDREWS LANDFILL

Mr. Norris advised the Commissioners that the County has a contract with Greater St. Mary's Disposal (McLeod and Sons) allowing them to timber at St. Andrews Landfill for 18 months. The contract expires November 1982 and they are requesting an extension. Mr. Norris recommended extending the contract to July 1, 1983, with the limitation that the work be done from 8:30 a.m. to 4:30, Monday through Friday.

Commissioner Aud moved, seconded by Commissioner Millison, to extend the timbering contract with Greater St. Mary's Disposal. Motion unanimously carried.

FOUNDING OF MARYLAND CELEBRATION
COLTON'S POINT ROAD

Present: Joe Goode, Seventh District Optimist

Mr. Goode appeared before the Commissioners to request assistance in clearing out of some of the old vacated structures along Rt. 242 towards the St. Clements Island Potomac Museum. He stated that in 1984 there will be visitors to the County for the Celebration of the Founding of Maryland and that some of these structures are eyesores. The Commissioners advised that permission would have to be obtained from the property owners to raze the structures, and suggested that the Permits Office work with Mr. Goode in doing this.

PROCLAMATION NO. 82-47
AMERICAN DIABETES MONTH

The Commissioners presented the referenced Proclamation designating November as American Diabetes month in St. Mary's County.

PROCLAMATION NO. 82-61
NATIONAL HOSPICE WEEK

The Commissioners presented the referenced Proclamation designating the week of November 7-14, 1982 as National Hospice Week.

PUBLIC HEARING(S)

The hearing was opened by Commissioner President George Aud. Other Commissioner members present included: Ford L. Dean, Larry Millison, Richard Arnold and Dave Sayre.

Those persons formally noting their presence, via the official "Sign-In Sheet" with respect to the hearing(s) scheduled this date are as follows: Charles A. Norris, Esq., Ralph S. Magnus, Edwin L. McKay, Albert J. Eaton, Marjorie C. Eaton, Alberta McKay, Raye Chesser. Staff present included: Frank Gerred, Robin Guyther, and Anita Meridith of the Office of P & Z.

Mr. Robin Guyther, Assistant Planner, read the advertised public hearing notice aloud, as it consecutively appeared in the published issues of the October 6, 1982 and October 13, 1982 Enterprise newspaper, providing due legal notification of the following hearing(s):

ZONE #82-0636: 7-11 STORE, Tex-Land Corp., Charles Norris

Requesting to rezone approximately .56 acres of property from R-1 to C-1. The property is located at the intersection of Maryland Route 235 and Gunston Drive in the 8th Election District, on Tax Map 35 C, Parcel 25.

Mr. Charles A. Norris, legal representative, approached the Board and offered the postal receipts from the certified letters of notification sent to all contiguous property owners (marked Applicant's Exhibit #1). Counsel verified that the property had been legally posted.

Counsel based his reason for the requested rezoning on both mistake in the original zoning of the property and change in the neighborhood. With respect to mistake, Mr. Norris offered that at the time of adoption of the Comprehensive Zoning, the store was in existence and operating commercially as a 7-11 Store. Hence, counsel emphasized that this property should have been included as a commercial piece of property when the plan was adopted.

Counsel noted that Mr. Chesser, Manager of the 7-11 Store, reportedly wrote a letter to the Board of Commissioners, during the initial zoning, pointing out that this was a commercial operation.

Speaking to the issue of change in the neighborhood, Mr. Norris offered the following as commercial operations developed in the neighborhood subsequent to adoption of the Comprehensive Plan: shopping center (Mayjack property), motel (Patuxent Motor Inn), real estate office (Town and Country Realty), drive-in property (235 Drive-In, recently rezoned to C-1), beauty salon and California Post Office.

Mr. Norris reflected that the Planning Commission had agreed with the applicant's basis for the request, after considering the evidence presented at their hearing and had taken the concerns of the residents into consideration, thus rendering a recommendation for a CL, Commercial Limited zoning designation.

Counsel offered that he had discussed several points with the applicant, which he had not been able to address nor adequately respond to at the former hearing, specifically, additional development of the property. Mr. Norris advised that the application was made in order that gas pumps would be installed in the front of the property, provided that all other requirements were met. Counsel emphasized, "that's all they plan to do."

The concerns voiced at the previous hearing by the residents had also addressed the buffer zone behind the building. Staff posted a large site map of the property and gave a visual presentation of the location of the building on the site, the highway, entrances and the grassy area. Counsel explained that at the time of the original application, which had appeared before the Board of Appeals (seeking variance), it had been agreed that the grassy area (contains septic system) would always remain as a buffer area. Counsel stated that no official County records could be found to verify this agreement, hence, he had written a letter to the Tex-Land Corporation requesting that they review their records accordingly. A letter from said corporation was entered into the record (marked Applicant's Exhibit #2) which offered confirmation of the above agreement between applicant and Board of Appeals during the initial variance application.

Former concerns addressed by the Planning Commission had been those relative to traffic, ingress/egress and those corresponding safety factors. Mr. Norris advised that subsequent to the hearing, he had written a letter, dated August 12, 1982, to Mr. Lawrence Elliott, Traffic Engineer of the State Highway Administration, who had responded to that correspondence, advising that a traffic study had been previously conducted of this area and that the SHA was willing to upgrade that former study to determine whether a controlled intersection was warranted. A copy of said correspondence was entered into the record and marked Applicant's Exhibit #3.

Counsel reiterated that based on the evidence presented, the Planning Commission had recommended CL zoning, to provide the protection sought by the residents. Counsel contended, that the problems of the buffer having been satisfied through recognition of the former agreement entered into between the applicant and County (Board of Appeals) and the fact that the applicant was willing to work with the State Highway Administration with respect to the traffic aspects, he felt that the residents' concerns had been addressed and would be resolved as a result of those steps previously outlined.

Mr. Ralph Magnus felt that a traffic light still would not solve the congestion at this intersection.

Commissioner Arnold injected that the logical alternative, would be to turn this problem over to officials who specialized in this field, in this case, the State Highway Administration.

The Chair inquired whether anyone wished to speak either in favor or opposed to this rezoning request.

Mr. Albert Eaton felt that when the road was developed, he didn't feel that the SHA had taken into consideration those numerous commercial businesses located within close proximity of this intersection. He felt that irregardless of this pending request, that the SHA should consider the safety aspects of this intersection, based on the existing conditions.

Mr. Magnus offered that if the Post Office relocated their parking area to the other side of the building, that this would greatly improve the situation and help protect Gunston Drive.

Alberta McKay stressed that when the property was sold, there was an agreement between the original owner and the Tex-Land Corporation that this property would be used solely for a 7-11 Store. She voiced concern with the fact that should the property be sold with a C-1 zoning, that other, less desirable commercial enterprises could result. Mr. Gerred advised that in order for the applicant to have a gas and go operation on this site, a C-1 zoning designation was necessary. A CL designation does not provide for a gas and go utilization on the property. Mr. Gerred offered that the applicant would be required to meet the requirements of the SHA with respect to the design of the ingress and egress for gas and go.

Mr. Norris advised that "whatever is required...whatever will satisfy this Board legally, we will do to assure that the buffer zone is permanently attached to the property...we are willing to comply."

Mr. Eaton felt that consideration should be given to a reduction of the 55 m.p.h. speed limit, should a gas and go be developed on this site. Commissioner Aud felt that those newly developed commercial operations, such as the Patuxent Motor Inn, would be taken into consideration by the SHA and they would be submitted their recommendations accordingly.

The hearing was closed, with the Chair noting that the Board would render a decision within thirty days.

ZONE #82-1079: TEXT AMENDMENT TO ZONING ORDINANCE
Bufferyards in Mobile Home Parks

This change would require that all new mobile home parks, or additions to existing parks, would include a 75 ft. buffer along all boundaries which adjoin land not zoned for mobile home parks, or that the width of the buffer may be reduced by the Planning Commission if certain performance standards for landscaping are met.

Mr. Guyther advised of the history behind this proposal, wherein staff had discovered that there were three different standards cited in the Ordinance with respect to bufferyards in the Mobile Home Park District (currently cites 35, 75 and 100 ft.). The staff conducted a study and considered several alternatives found under "Performance Zoning."

Staff noted that the Planning Commission's recommendation had been to effect a 75 ft. buffer with landscaping and provide flexibility to allow within 40 ft., provided an 8 ft. fence and stipulated plantings were incorporated. If the bufferyard is wooded, the proposed text would provide even further flexibility with respect to the required plantings.

Staff emphasized that these bufferyards only related to those mobile home parks which adjoined land not zoned Mobile Home Park.

Commissioner Millison offered that he agreed with the change and felt that it was a constructive amendment, demonstrated by the additional fact that there had not been any public opposition to this proposal.

Hearing closed.

WESTINGHOUSE CORPORATION RESOLUTION

Mr. Gerred advised that several months ago, the Westinghouse Corporation had requested that the County apply the new AICUZ footprint to a portion of Cedar Cove, Section I. The Commissioners gave their concurrence and the resolution was sent back through the attorneys to get Westinghouse Corp. signature. Following their review and request, the resolution was rewritten. Staff has reviewed the new document and offered that it was "essentially what the Commissioners wanted to do, that is, to allow construction of homes down on the triangle." The County Attorney has given his concurrence with the rewritten text.

Commissioner Millison refrained from participation, citing possible conflict of interest.

Commissioner Arnold moved, seconded by Commissioner Sayre, to sign the resolution. Commissioner Dean and Aud also voted in favor. Motion passed.

COUNTY'S LIABILITY AND FIRE INSURANCE

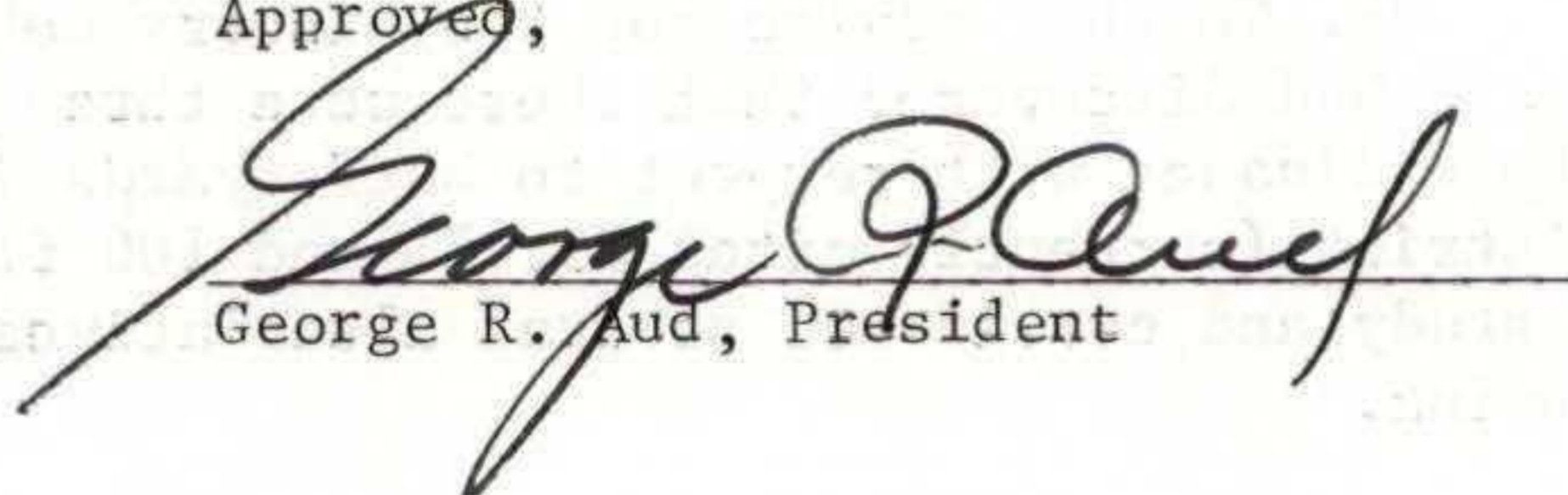
As a follow up to the presentation by the Director of Finance at last week's meeting regarding the above, Commissioner Dean moved, seconded by Commissioner Aud, to accept the recommendation of the Insurance Buyers' Council to purchase the county insurance package from Poor, Bowne, Bartlett and Kennedy Agency. Motion unanimously carried.

EXECUTIVE SESSION

The Commissioners agreed to meet in Executive Session in order to discuss a matter of Personnel (Appointments to Boards, Committees and Commissions). The Session was held from 2:15 to 3:00 p.m.

The meeting adjourned at 3:00 p.m.

Approved,


George R. Aud, President