

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, February 21, 1984

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

(Commissioner Ford L. Dean was not present at opening of meeting.)

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

APPROVAL OF MINUTES

Commissioner Arnold moved, seconded by Commissioner Aud, to approve the minutes of the Commissioners' meeting of Tuesday, February 14, 1984. Motion unanimously carried.

APPROVAL OF BILLS

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

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) APPOINTMENTS
BOARDS, COMMITTEES, AND COMMISSIONS

Building Authority Commission

Commissioner Aud moved, seconded by Commissioner Millison, and unanimously carried to make the following appointments to the Building Authority Commission as follows:

County Administrator	- Edward V. Cox
County Engineer	- John B. Norris
Director, Budget & Data Services	- Joseph P. O'Dell
County Attorney	- Theodore Weiner
Director, Planning & Zoning	- Frank Gerred

Hospital Renovation Committee

Commissioner Aud moved, seconded by Commissioner Sayre, and unanimously carried, to make the following appointments to the Hospital Renovation Committee:

Karen Abrams
Abell Longmore
James W. Neal
C. Clarke Raley

COUNTY ADMINISTRATOR ITEMS (Continued)

- 2) CLEARINGHOUSE PROJECT NO. MD 84-2-347
MARYLAND VETERANS HOME COMMISSION
DECLARATION OF STATE EXCESS PROPERTY - PROPOSED DEMOLITION OF
SEVEN BUILDINGS AT THE CHARLOTTE HALL VETERANS HOME

The County Administrator presented the referenced clearinghouse project and advised that the Maryland Veterans Home Hospital is scheduled to open this year and the Veterans Home Commission is in the process of soliciting bids for the razing of seven buildings at the Charlotte Hall site. The buildings are described in the clearinghouse documents and Mr. Cox suggested that the Commissioners not make a comment today on the project, but take time to review the documents and act at a later date. The Commissioners accepted this recommendation.

- 3) PERSONNEL
COUNTY ENGINEER'S OFFICE

The County Administrator presented a memorandum dated February 21, 1984 from the Personnel Officer requesting authority to begin the hiring process to replace Katherine Ogg, Secretary I, Grade 7, in the County Engineer's Office, who is resigning effective March 9, 1984.

Commissioner Aud moved, seconded by Commissioner Sayre, to begin the hiring process as set forth above. Motion carried.

(The following items of the County Administrator were presented later in the day with Commissioner Dean in attendance.)

- 4) ST. MARY'S HOSPITAL PROJECT
REQUISITION NO. 27

The County Administrator presented Requisition No. 27 in the amount of \$6,869.63 representing costs incurred for the hospital project.

Commissioner Arnold moved, seconded by Commissioner Millison, to approve and authorize Commissioners Aud and Dean to sign said Requisition. Motion unanimously carried.

- 5) PROJECT GRADUATION '84
APPROPRIATION OF FUNDS

The County Administrator presented a memorandum dated February 21, 1984 from the Director of Budget and Data Services recommending the Commissioners' approval of the appropriation of \$8,000 for the "Project Graduation" (a chemical-free graduation event). The State's Attorney had previously requested that the funds be taken from the Alcohol Education Program receipts; however, in that these funds were deposited into the General Fund, it is recommended that the \$8,000 be taken from Research and Special Projects Account and a new account be established in the State's Attorney's Office to receive new funding authority for FY '84. Commissioner Arnold moved, seconded by Commissioner Sayre, to accept this recommendation. Motion unanimously carried.

TOURISM DEVELOPMENT RECOGNITION - HARRISBURG OUTDOOR SHOW

Present: David W. Morgan, Economic Development Coordinator
Capt. Tom Jones
George Havens
Norman Bishop
Sara Squillante

The Commissioners presented Commendations to the referenced individuals who assisted Mr. Morgan in the County's efforts to promote tourism in St. Mary's by volunteering their time and talents in the annual Eastern Outdoor and Travel Show in Harrisburg, Pennsylvania. (Mrs. Ellen P. Havens and Mr. Donald Drury also received Commendations but were unable to attend today's meeting.)

OFFICE OF COUNTY ENGINEER ITEMS

Present: John Norris, County Engineer

1) PUBLIC INFORMATIONAL MEETING
McKAY'S COVE DREDGING PROJECT

For the Commissioners' information Mr. Norris advised that a public informational meeting has been scheduled for March 13 at the Governmental Center to discuss the establishment of a special taxing district for the McKay's Cove dredging project with the property owners.

2) BUSHWOOD WHARF PROJECT

For the Commissioners' information, Mr. Norris advised that the County will not be in receipt of the survey data for the establishment of the boundary line for the referenced project until mid-March in that the contractor, D.H. Steffens, was unable to get the work done until that time.

3) McINTOSH ROAD/BRIDGE PROJECT UPDATE

Mr. Norris advised the Commissioners that the deck for McIntosh Bridge was poured Friday. Mr. Norris presented photographs depicting the work that has been completed on the project and advised that the work items remaining to be done are pouring of bulkheads on deck, pouring of wingwalls, relocating of stream, and building of embankment. Mr. Norris indicated that McIntosh Road should be opened to traffic once the above work is completed.

4) ST. CLEMENTS ISLAND MUSEUM CONSTRUCTION PROJECT

Mr. Norris indicated that it appears from his weekly visits to the St. Clements Island Museum construction site that the project is running a little behind schedule; however, it was his opinion that the time could be made up.

JOB TRAINING PARTNERSHIP ACT-PRIVATE INDUSTRY COUNCIL
SUMMER YOUTH EMPLOYMENT PROGRAM

Present: Phebe Barth, Youth Services Coordinator

Ms. Barth appeared before the Commissioners to advise that it has been learned that the PIC/JTPA funding level for the summer youth employment program has been reduced by 40% of last year's. She stated that the County has two programs for youth employment--in-school youth, funded through the school system and an out-of-school student program, funded by the County, and because of the greater emphasis on employment opportunities for young people still in school, it is recommended that the County withdraw from the out-of-school program and place more emphasis on the in-school program. Ms. Barth stated that Mr. Mayola of PIC has suggested that the County apply for Title IIA funding to put together a training program in that area; however, the deadline for submission is March 2, which would not allow enough time to put a proper proposal together. Therefore, Ms. Barth presented a letter for the Commissioners' review and signature addressed to the Private Industry Council advising that the County will not be submitting a grant application for either Title IIB or IIA funds for youth employment or youth training programs at this time, but would like the option to submit a proposal at a later date. After discussion, Commissioner Arnold moved, seconded by Commissioner Millison, to authorize Commissioner President Aud to sign said letter.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator

Commissioner Arnold moved, seconded by Commissioner Sayre, to meet in Executive Session in order to discuss a matter of Personnel. The Session was held from 9:50 a.m. to 10:30 a.m.

(Commissioner Ford L. Dean entered meeting at 10:20 a.m.)

REZONING DECISION/DISCUSSION

ZONE #84-0884: BUDDY WINSLOW (Marina)

Request to rezone 1.0 acres from R-1, Rural Residential, to CM, Commercial Marine. The property is now a nonconforming use marina in Town Creek, off Bill Dixon Road, 8th Election District, on Tax Map 35, Block 2, Parcel 2, Levering Subdivision, Lot 122.

The full complement of the Board of County Commissioners was in attendance, as were planning staff Frank Gerred, Director, and Anita Meridith, Recording Secretary, Office of Planning and Zoning.

Commissioner Dean summarized the history of this application to date, offering that the applicant had made application to rezone the subject property from R-1 to CM, Commercial Marine, having gone through the County Commissioners' rezoning hearing process. The Board subsequently met to discuss the case (1-31-84); however, no action was taken, but rather the applicant was requested to prepare a concept site plan relative to what was being proposed to be developed on the site. The applicant, having presented said site plan the previous week (2-14-84) to the Board, the Commissioners subsequently placed the matter under the advisement and consideration for determination by the Board this date.

Commissioner Dean began discussion by noting that he had reviewed the case and at this time offered his finding to the Board: That there was basis for the contention of mistake in the original zoning, given the fact that within Town Creek there are three(3) other existing parcels of property zoned CM, Commercial Marine and four (4) other nonconforming commercial marine parcels in addition to the subject parcel. Because of the existence of the aforementioned uses and because of the historical commercial marine use of the subject property, Commissioner Dean suggested that the requested change in the R-1 zoning classification to CM, Commercial Marine, be granted with certain conditions and limitations. Those conditions/limitations are felt necessary due to the following:

1. Access to the subject property is through a densely populated residential community with rather narrow and restrictive roadways.

2. The small size and configuration of the property imposes limitations on its potential development.

3. The subject property is situated at the mouth of Town Creek and the intensity of its development has a bearing on the use of the creek by others.

4. The subject property is adjacent to residentially zoned and used properties.

5. Action by the Board in the subject case establishes an element of precedent which could have a bearing on future rezoning applications concerning other parcels within Town Creek.

REZONING DECISION/DISCUSSION (Continued)
BUDDY WINSLOW

Accordingly, Commissioner Dean felt that the application for CM, Commercial Marine should be granted with the following limitations and conditions attached:

1. Mooring facilities shall be limited to a maximum of thirty-six (36) boats and shall not project into the channel so as to impede two-way boat traffic into and out of Town Creek.

2. Expansion above the current eighteen (18) boats slips to the maximum of thirty-six (36) shall require the installation of a dumping station, septic tank and drainfield.

3. The following uses permitted in the Commercial Marine Districts SHALL NOT be permitted at or on the subject property.

- a. Boat and marine motor service and repair, except for those of an emergency nature;
- b. Fish or shellfish sales establishment, wholesale or retail;
- c. Restaurant, cocktail lounge or refreshment stand selling alcoholic beverages;
- d. Commercial pier or dock for the loading, unloading, buying or selling of seafood.

Commissioner Arnold stated that he was in agreement with respect to the curtailment of the previously outlined activities. He stressed that this was certainly a very sensitive area, being very familiar with the area and neighborhood. He felt that there was absolutely no way this property could accommodate 100+ slips, as originally outlined. He reflected that while this "historically had been a marina" he acknowledged the fact that there were "certain things there now ... in my opinion, doing damage to the creek." Commissioner Arnold felt that those existing problems could be corrected through strict implementation of those restrictions outlined by Commissioner Dean. He felt that by allowing the expansion of the 18 slips to 36, with those conditions outlined, "would be enough that could be allowed and at the same time safeguard the area, the creek, with the proper facilities, which is the pump out... but I would think that anybody in that vicinity, the neighborhood, would be far better off, something a little bit better than what's there now."

Commissioner Arnold also felt that the restrictions outlined took into consideration the narrow road traversing through this residential area and the limited size of the property. However, he stated that taking all those concerns into account, an approval for CM, with limitations and certain restrictions could be conducive and beneficial to the character of the area and residents alike.

Commissioner Millison asked what the original application had proposed. Mr. Gerred advised that initially, the plan called for 52 slips; however, during the hearing process, the applicant had advised (following concerns voiced by several of the area residents) that he did not intend to serve alcoholic beverages and had no plans with respect to development of a restaurant or lounge. Commissioner Millison felt that this reservation (restriction of restaurant/sale of alcoholic beverages) placed him in somewhat of a position. He explained he owned a restaurant and bar and should the Board impose said limitation, it could be construed that he voted in favor of that limitation for competitive reasons. For this reason, Commissioner Millison felt that implementation of said specific condition could place him in a position of conflict of interest. Commissioner Millison then polled his fellow Commissioners with respect to their thoughts relative to alleviation of that specific exception. He further inquired whether contract zoning would "hold up."

REZONING DECISION/DISCUSSION (Continued)
BUDDY WINSLOW

In response to the latter, Mr. Gerred responded that in the opinion of the Attorney General, it would, i.e. the Commissioners could disallow certain uses that would ordinarily be allowed, but because of site restrictions and other findings, the Board could disallow those certain uses.

In answer to Commissioner Millison's suggestion to withdraw the restriction of the restaurant alternative, Commissioner Dean felt that from a practical point of view, the site itself would restrict and preclude use of the restaurant. He also felt that in order to provide assurances to the community and to clearly outline for the applicant and any future owner that this was a restriction attached to the property, that this special condition should remain.

Commissioner Sayre echoed Commissioner Arnold and Dean's sentiments, adding that it was the responsibility of the Board to not only safeguard the water, but the land as well.

In response to Commissioner Millison's former inquiry, Commissioner Arnold noted that he was of the opinion that the Board should definitely retain the restriction of the restaurant explaining that this would "safeguard the next owner, that is to safeguard the people from what the next owner may do, if it's a permitted use..." Mr. Arnold stressed that he also felt that any expansion over 36 slips would be "an infringement upon the riparian rights of other property owners on that creek."

Commissioner Dean moved to instruct the County Attorney to prepare the adopting resolution permitting the rezoning to CM, Commercial Marine with the following limitations, restrictions, and conditions:

1. Mooring facilities shall be limited to a maximum of 36 boats and shall not project into the channel so as to impede two-way boat traffic into and out of Town Creek.
2. Expansion above the current 18 boat slips to the maximum of 36 shall require the installation of a dumping station, septic tank and drainfield.
3. The following uses permitted in Commercial Marine Districts SHALL NOT be permitted at or on the subject property;
 - a. Boat and marine motor service and repair, except for those of an emergency nature;
 - b. Fish or shellfish sales establishments, wholesale or retail;
 - c. Restaurant cocktail lounges or refreshment stands selling alcoholic beverages;
 - d. Commercial pier or dock for the loading, unloading, buying or selling of seafood.

Commissioner Arnold seconded the motion with the proviso that the motion be amended to include:

Further, the County Attorney is hereby instructed to review the legal question concerning the pumping (trunking) of sewage onto adjacent residential property. Commissioner Dean concurred with said amendment.

The Chair called for the question, then the vote. Commissioner Millison abstained, Commissioner Aud opposed and Commissioner members Dean, Arnold, and Sayre voted aye. The motion passed three (3) to one (1) with one abstention.

NOTE: This approval DOES NOT include the three residential lots mentioned in previous discussions, just the one lot, as outlined in the application.

ZONE # 83-1202: PHILIP CLARKE

Requesting rezoning of lots 5 & 6 on Clarke's Landing Road from IM, Industrial Marine, to R-1, Rural-Residential. The property contains 2.5 acres total and is located in the Sixth Election District on Tax Map 27, Block 18, Part of Parcel 159.

The full complement of the Board of Commissioners was present, as were planning staff, Robin Guyther, Planner, and Anita Meridith, Recording Secretary, Office of Planning and Zoning

Mr. Guyther read the public hearing notice aloud into the record, as it appeared in the Enterprise Newspaper in the February 1st, 1984 issue, providing proper legal notification of this hearing.

Members of the audience included: Mike Harris, Emil Nielsen, and Howard Hagen.

Mr. Michael Harris, Esq., legal representative for the applicant, came forward and advised that Mr. Clarke was unable to attend the hearing on this date, due to poor health, however, he would speak on behalf of the applicant and present the case. The postal receipts from the certified letters of notification were entered into the record and marked Applicant's Exhibit # 1. Counsel also verified that the property had been legally posted.

Staff acquainted the members with the location of this property (located next to the Burch Oil Bulk Storage Plant at Clarke's Landing). Mr. Guyther explained that originally, all the subject's land, at time of adoption of Comprehensive Zoning, was zoned Industrial Marine; however, it has not always been used for industrial purposes. The applicant is seeking approval to have 2.5 acres removed from the larger industrial parcel and designated R-1. A site map was displayed for the Commissioners' review.

Counsel based this request on mistake in the original zoning of the property, a fact which he contended was corroborated by the staff's report previously submitted in this matter, i.e. it was a mistake to have zoned all of the applicants property in the area of the Burch Bulk Plant Industrial Marine. Mr. Harris stressed that at the time of Comprehensive Zoning, the applicant, Mr. Clarke, has not been personally consulted with respect to his wishes for zoning classification of his property. Counsel explained that these 2.5 acres which are being requested for "down-zoning" are to enable the applicant to develop two (2) residential lots, to be purchased by one individual. Mr. Harris stressed that this requested "down-zoning" would be more compatible with the neighborhood and acknowledged the presence of a Mr. Emil Nielsen in the audience, this date, a nearby property owner who would offer his testimony into the record. Counsel again stressed that an approval of this application would not be a detriment to the neighborhood, but rather a plus.

The Chair inquired whether anyone present wished to speak in favor of this application.

Mr. Emil Nielsen stated simply, "I am wholeheartedly in favor of it."

The Chair inquired whether anyone present wished to speak opposed. There was no response.

Hearing no further testimony, the hearing was closed and the matter taken under advisement.

TOBACCO FESTIVAL SIGN

Commissioner Arnold requested the County Administrator to make contact with the St. Mary's County Fair Board to request if it was possible for a sign to be placed on the Fairgrounds advertising the Maryland Tobacco Festival July 28-29 as is done with the County Fair and Oyster Festival.

PROJECT GRADUATION '84
(PRESENTATION)

Present: Walter Dorsey, State's Attorney
Florence Ballangee, Case Services Coordinator
Larry Lorton, Superintendent of Schools
Lt. Plunkert, MD State Police
Lt. Pellillo, Sheriff's Dept.
Representatives from Chopticon, Great Mills, and Leonardtown High Schools

The referenced individuals appeared before the Commissioners to explain the Project Graduation '84 Program, which is a Program designed to encourage graduating seniors to attend a chemical-free graduating event following graduation ceremonies of the four county high schools. Attendance at the event would be on a voluntary basis and would provide an alternative to drinking parties which has been marred in the past by drinking-related traffic accidents.

At this point a video tape was presented wherein Ms. Ballangee and Trooper Simms of the Maryland State Police discussed with representative of Chopticon High Schools the proposal for "Project Graduation." Mr. Dorsey pointed out that it was apparent from the tape that the students had input in the formulation of the program and the establishment of guidelines. A contract will be signed by the participants of the program.

Mr. Dorsey stated that in July of 1983 his office presented the County Commissioners with a check in the amount of approximately \$12,000, which represented funds received from the Alcohol Education Program (which was for those individuals who had been charged with the operating a motor vehicle while under the influence of alcohol). He stated that at this time, it was recommended that a portion of those funds be used for "Project Graduation", and the Commissioners had requested that additional be gathered and presented to the Board, which has been done.

Dr. Lorton, Lt. Plunkert, and Lt. Pellillo, on behalf of Sheriff Pettit, expressed endorsement of the Program and offered the full support of their offices.

The Commissioners commended everyone involved in the establishment of the Program and advised that the Board granted approval of the appropriation from the County Administrator's Research and Special Projects Account of \$8,000 for this purpose in their meeting earlier today.

ZONING AMENDMENT RESOLUTIONS

Present: Frank Gerred, Director, Office of Planning and Zoning
Robin Guyther, Planner, Office of Planning and Zoning

RESOLUTION NO. Z84-05
DEER WOODS PUD - ZPUD #83-1127

(Application to rezone from R-1, Rural Residential, to PUD-2, Planned Unit Development property consisting of approximately 25 acres of land located on MD Route 712, adjacent to Forrest Park Subdivision, in the Eighth Election District of St. Mary's County, Maryland, on Tax Map 52, Block 2, Parcel 68.)

Commissioner Arnold moved, seconded by Commissioner Dean, to approve and sign Zoning Amendment Resolution No. Z84-05 approving the requested zoning application. Motion unanimously carried.

ZONING AMENDMENT RESOLUTIONS (Continued)

RESOLUTION NO. 84-06
AMERICAN LEGION POST 255
ZONE #83-0978

(Application to rezone land from R-1, Rural Residential, to RSC, Rural Service Center, consisting of approximately 4.0 acres and located on MD Route 5, in Ridge, just north of Airedale Road, First Election District of St. Mary's County, Tax Map 71, Block 13, Parcels 447, 156, and 349.)

Commissioner Dean moved, seconded by Commissioner Sayre, to approve and sign Zoning Amendment Resolution No. Z84-06, approving the requested zoning application. Motion unanimously approved.

RESOLUTION NO. Z-84-07
JOHN L. NELSON - RIDGE TEXACO

(Application to rezone a parcel of land from R-1, Rural Residential, to RSC, Rural Service Center, consisting of approximately .72 acres and located on the east side of Maryland Route 235, just north of its intersection with Maryland Route 5, First Election District of St. Mary's County on Tax Map 71, Block 7, Parcel 285.)

Commissioner Arnold moved, seconded by Commissioner Sayre, to approve and sign Zoning Amendment Resolution No. Z84-07 approving the requested rezoning application. Motion unanimously carried.

EXECUTIVE SESSION

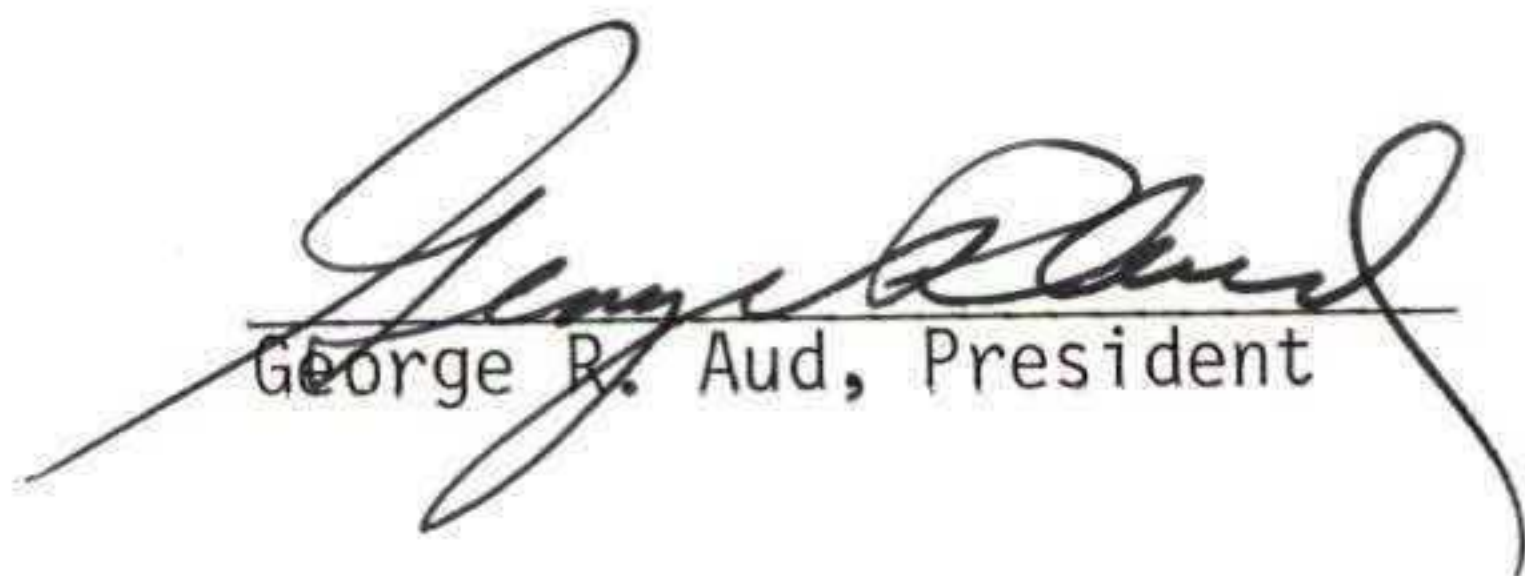
Present: Edward V. Cox, County Administrator
Theodore Weiner, County Attorney
Joseph Densford, Assistant County Attorney
Frank Gerred, Director, Office of Planning and Zoning
Attorney and Representatives of the Potomac River Association
Harry Buckley

Commissioner Aud moved, seconded by Commissioner Arnold, to meet in Executive Session in order to discuss a matter of potential litigation. The Session was held from 1:35 p.m. to 3:15 p.m.

ADJOURNMENT

The meeting adjourned at 3:15 p.m.

Approved:


George R. Aud, President