

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, April 17, 1984

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

CALL TO ORDER

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

APPROVAL OF MINUTES

Commissioner Dean moved, seconded by Commissioner Sayre, to approve the minutes of the Commissioners' meeting of Tuesday, April 10, 1984. Motion unanimously carried.

APPROVAL OF BILLS

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

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) BUDGET AMENDMENTS

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

No. 84-39
SHERIFF

Justification: To increase primarily jail account associated with higher than estimated inmate population. Plus, contract for medical lapse per each account as of June 30, 1984.

Commissioner Dean moved, seconded by Commissioner Aud, to approve and sign said Budget Amendment. Motion unanimously carried.

No. 84-41
COUNTY ENGINEER

Justification: To cover increased estimate of office supplies during remaining part of FY'84.

No. 84-42
COUNTY ENGINEER
PURCHASING AND LOGISTICS

Justification: To acquire electronic typewriter for Communications Clerk in Highway Maintenance Division. Funds to come from FY '84 allocated Highway Maintenance.

Commissioner Dean moved, seconded by Commissioner Arnold, to approve and sign Budget Amendments No. 84-41 and No. 84-42. Motion unanimously carried.

2) SOUTHERN MARYLAND HEALTH SYSTEMS AGENCY
PROVIDER POSITION

Inasmuch as Dr. Richard Martin's term on the SMHSA will expire June 30, 1984 and cannot be reappointed, the County Administrator presented correspondence for the Commissioners' review to SMHSA recommending the nomination of George Smith, Director, St. Mary's Nursing Home, to this position. Commissioner Aud moved, seconded by Commissioner Millison, to forward said letter nominating Mr. Smith. Motion unanimously carried.

3) PERSONNEL

a) Inspector
County Engineer's Office

The County Administrator presented a memorandum dated April 13, 1984 from the Personnel Officer requesting authorization to fill the Inspector position, Grade 10, in the County Engineer's Office recently vacated by the transfer of Phil Shire to the Office of Planning and Zoning.

Commissioner Dean moved, seconded by Commissioner Arnold, granting said authorization. Motion unanimously carried.

b) Maintenance Foreman
Recreation and Parks

The County Administrator presented a memorandum dated April 17, 1984 from the Personnel Officer recommending the appointment of Robert Morgan to the Maintenance Foreman position, Grade 8, in the Recreation and Parks Office, effective April 23, 1984.

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

4) ACCEPTANCE OF DEED
BOARD OF EDUCATION

The County Administrator presented a Deed dated April 10, 1983 by and between the Board of Education of St. Mary's County and the Board of County Commissioners for property in the Third Election District for the Tech Center house in Sandates.

Commissioner Dean moved, seconded by Commissioner Sayre, to accept said Deed. Motion unanimously carried.

5) GREAT MILLS HIGH SCHOOL FUNDRAISER
STREET ADDRESS STENCILING PROJECT

The County Administrator advised that Great Mills High School students are planning a fundraising project whereby they would stencil addresses on the sidewalk of houses with curbs. County Government approval is needed to do this on county roads. The painting of the numbers would assist emergency and general delivery vehicles locate a house. The Commissioners approved the concept and requested Mr. Cox to contact the County Engineer's Office to develop a standardization for types of numbers and colors and return to the Board with the results.

6) MARYLAND HERITAGE COMMITTEE
GRANT APPLICATION

The County Administrator advised that the County will be in receipt of a grant from the Maryland Heritage Committee in the amount of \$10,000 for the 350th Anniversary Celebration. Approval by the Board is requested to accept the grant from Maryland Heritage Committee. Commissioner Aud moved, seconded by Commissioner Sayre, to accept the \$10,000 grant as referenced above. Motion unanimously carried.

7) DEDICATION OF "THE LONG VOYAGE OF THE ARK AND DOVE"

The County Administrator advised that Mr. Robert Pogue is donating his book, The Long Voyage of the Ark and Dove, to the County and it is requested that the Board of County Commissioners sign the sheet dedicating the book in "recognition of the 350th Anniversary of the settlement of St. Mary's City."

8) REQUISITION NO. 34
ST. MARY'S HOSPITAL

The County Administrator presented Requisition No. 34 in the amount of \$90,805.87 representing costs incurred in the St. Mary's Hospital project.

Commissioner Sayre moved, seconded by Commissioner Aud, to accept and sign said Requisition. Motion unanimously carried.

COUNTY ENGINEER ITEMS

Present: John Norris, County Engineer

1) PROJECT NO. SM 84-4-9
SANITARY FACILITIES AT ENGINEERING OFFICE AND
VEHICLE MAINTENANCE FACILITY

Mr. Norris presented the bid tally sheet for the referenced project and recommended awarding the contract to the lowest bidder, J. M. Tennyson Construction, in the amount of \$8,973.82.

Commissioner Sayre moved, seconded by Commissioner Arnold, to accept the County Engineer's recommendation. Motion unanimously carried.

2) APPLICATION TO FAA
RADIO COMMUNICATIONS TOWER

The County Engineer presented an Application to be submitted to FAA for the installation of a radio communications tower at the Highway Maintenance Facility at the St. Andrews Landfill site and requested authorization for Commissioner President Aud to sign same.

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

3) TEMPORARY HOUSING FOR HIGHWAY MAINTENANCE FOREMAN

Mr. Norris advised the the Commissioners that inasmuch as the Foreman and other Highway Maintenance personnel will be coming on board in May, he will be providing temporary office space for them at the old Armory (the new Leonardtown Library) on the second floor.

4) STREET SIGN INSTALLATION

Mr. Norris advised that SHA has not been performing the street sign installations on a routine basis on County roads and recommended that it be handled in one of two ways: (a) use the county contract or (b) temporarily hire someone. Mr. Norris recommended the latter method and requested the Commissioners to provide funding from the Highway Maintenance budget for this project. After discussion, the Commissioners concurred in accepting the County Engineer's recommendation.

5) SIGNS FOR NESEA FACILITY

Commissioner Millison requested Mr. Norris to contact the State Highway Administration either formally or informally relative to having more signs along state roads indicating the location of the Naval Electronics Systems Evaluation Activity (NESEA) at St. Inigoes.

Mr. Norris advised that he would make informal contact regarding this matter and would return to the Commissioners with a report on the outcome.

6) BEACHVILLE ROAD

Mr. Norris requested authorization from the Board for the following regarding the Beachville Road improvements Road at St. Inigoes:

- a) To start survey work in the amount of \$8,000;
- b) To begin the acquisition of rights-of-way; and
- c) if approved, to advance funds from another project in that funds for this project are not available until July 1. Funds can then be transferred back to that project after July 1.

After discussion, the Commissioners concurred with Mr. Norris' recommendations.

7) AIRPORT ENGINEERING SERVICES

As a follow up to last week's discussion, Mr. Norris advised that a decision is needed by the Board for the acceptance of the contract with Greiner Engineering Sciences, Inc. for the following items:

- a) To design the obstruction removal safety items required by FAA, including the closing of the open storm drainage system adjacent to the runway;
- b) To design the extension of the runway and taxiway.

Mr. Norris stated that the project would be phased to coincide with the county's ability to fund in this fiscal year's budget and into next year's budget.

After discussion the Commissioners to accept the contract with Greiner Engineering Sciences, Inc. as set forth above.

8) TIMBER VALLEY COURT
SPRING VALLEY SUBDIVISION
DRAINAGE IMPROVEMENTS SURVEY

Mr. Norris advised that one of the Lexington Park drainage outfalls is Timber Court in Spring Valley Subdivision and survey and design proposals have been solicited. Mr. Norris recommended accepting the proposal from the firm of Lorenzi, Dodds and Gunnill in the amount of \$18,890. He stated that there is currently \$5,000 in budget authority and that the Director of Budget and Data Services would have to determine a source of funding for the balance.

After discussion, the Commissioners concurred with Mr. Norris' recommendation.

9) NURSING HOME AND STATE OFFICE COMPLEX PROJECTS
DESIGN AND PLANNING ACTIVITIES COORDINATOR

Mr. Norris advised the Commissioners advised that both of the referenced projects are moving forward and that the interview process is underway for architectural/engineering services. Mr. Norris recommended that the County hire James M. Raley as Project Coordinator for the design and planning activities of the Nursing Home and State Office Complex projects at the rate of \$25 per hour, plus mileage and expenses. He stated that the costs would be charged to the projects themselves.

The Commissioners accepted Mr. Norris' recommendation and authorized Commissioner President Aud to sign the Employment Contract for Mr. Raley.

10) PINEMORE SUBDIVISION - SECTION ONE
ROAD STANDARDS WAIVER

Relative to action taken by the Board at last week's meeting, Mr. Norris advised that he has reconsidered the developer's request for a waiver of the County's Road Standards, to allow the placement of two (2) inches of asphalt as opposed to the required three (3) inches. He stated that inasmuch as there are only four lots involved he would recommend that there be two and one-half (2½) inches of SN asphalt in lieu of two (2) inches of BF asphalt and one (1) inch SN asphalt. He further recommended that any further requests be handled on a case-by-case basis.

After discussion, the Commissioners gave their concurrence in accepting the County Engineer's recommendation.

EXECUTIVE SESSION

Present: John Norris, County Engineer
Joseph Densford, Asst. County Attorney
John Baggett, Director, Recreation and Parks
Joseph O'Dell, Director, Budget & Data Services
Edward V. Cox, County Administrator

Commissioner Millison moved, seconded by Commissioner Aud, to meet in Executive Session in order to discuss matters of Litigation, Personnel and Property Acquisition. Motion unanimously carried. The Session was held from 10 a.m. to 11:20 a.m.

(Commissioner Ford L. Dean left meeting - 11:20 a.m.)

ST. CLEMENTS ISLAND MUSEUM - FY '85 BUDGET

Present: John V. Baggett, Director, Recreation and Parks
Joseph O'Dell, Director, Budget & Data Services

Mr. Baggett appeared before the Commissioners to review the Museum's section of the FY '85 Recommended Budget and to request the Board's consideration for additional funds in the amount of \$8,128 for additional employees including a custodian, a captain and mate for the Museum's boat. Discussion ensued as to the possibility of the Museum Board assuming the responsibility for the boat's captain and mate. Mr. Baggett stated he would contact the Museum Board members regarding this.

The Commissioners advised that all decisions regarding funding for the FY '85 Budget will be made after the public hearings.

PROCLAMATION NO. 84-20
KEEP AMERICA BEAUTIFUL WEEK

Present: Jimmie Mora, Clean-Up Campaign Coordinator

The Commissioners presented the referenced Proclamation designating the week of April 22, 1984 as Keep America Beautiful Week in St. Mary's County.

COMMENDATION
GREAT MILLS HIGH SCHOOL GIRLS' BASKETBALL TEAM

Present: Great Mills High School Principal
Coach of Girls' Basketball Team
Great Mills H.S. Girls' Basketball Team

The Commissioners presented a Commendation to the 1984 Great Mills High School Girls' Basketball Team for their athletic accomplishments in capturing Second Place in the Class B State Finals.

REZONING HEARINGS

(ZONE #83-1436 - RICHARD A. COPSEY)
(ZONE #82-0884 - BUDDY WINSLOW)

Commissioners present: George Aud, Ford Dean and David Sayre.
Staff present: Robin Guyther, Planner; Anita Meridith, Recording Secretary

Others in attendance: Joseph Mattingly, Jr., Esq., and Richard A. Copsey.

ZONE #83-1436 - RICHARD A. COPSEY

Requesting rezoning from C-1, Commercial, to C-2, Commercial with waiver of the lot size requirement. The property contains approximately .43 acres and is located on Md. Rt. 5, Charlotte Hall (Lots 13 and 14, Canters Subdivision), Tax Map 1, Block 21, Part of Parcel 1, Fifth Election District.

Mr. Guyther read the public hearing notices aloud for both of the public hearings scheduled this date (ZONE #83-1436; RICHARD A COPSEY and ZONE #82-0884; BUDDY WINDLOSW MARINA) as advertised in the Wednesday, March 28, 1984 Enterprise Newspaper.

Mr. Joseph Mattingly, Jr. representing counsel, and the applicant, Mr. Richard A. Copsey, came forward and presented the postal receipts from the certified letters of notification sent to all contiguous property owners (Marked Applicant's Exhibit No. 1). Mr. Mattingly verified that the property had been duly posted.

Staff recalled that the Planning Commission had forwarded a recommendation to the Board of County Commissioners that the property be rezoned from C-1 to C-2.

Counsel recalled that justification for the rezoning was based on both mistake in the original zoning of the property and change in the neighborhood. He explained that in the 60's, the property was utilized as a used car lot, verified by evidence presented at the Planning Commission hearing, tagged Applicant's Exhibit 3, identified as a certificate copy of a trader's license issued to one Vincent Maloy, trading as Vince's Used Cars, dated 1973, bearing expiration date of May 1974. Change in the neighborhood was based on the unanticipated growth in the Fifth Election District, with specific mention of those various commercial enterprises which had "sprung up" along the Rt. 5 corridor. Several recent rezonings in the neighborhood were cited, i.e., Seymour Auto Parts, Southern States property, new restaurant, and the Easy Wash Car Cash properties owned by Ben Burroughs, which counsel felt further substantiated his contention relevant to change in the neighborhood. The chair asked whether anyone present wished to speak either in favor or opposed.

Hearing no response, the hearing was closed. The Commissioners will take the matter under advisement and render decision in the near future.

ZONE #82-0884 - BUDDY WINSLOW MARINA

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

Commissioners Present: George Aud, Ford Dean, David Sayre and Richard Arnold (arrived later in the hearing). Absent: Commissioner Millison

Staff present: Robin Guyther, Planner and Anita Meridith, Recording Secretary, Office of Planning & Zoning.

Members of the audience included: Buddy Winslow, Jan Johnson, Joseph W. Powers, Patricia A. Powers, Robert E. Herndon, Jr., Floyd A. Rabil, Naomi Herndon, Ann McAllister, Bettye Rabil, Dorothy L. Dwyer, Betty Williams, Juanita Modlin, Helen V. Feldman, Estelle Bean, R. Timothy Barock, Helen Gilbert, Bell W. Edwards, Daniel L. Buckner, June Buckner, M. L. Anderson, R. E. Darnall, F.A. Anderson, Laura B. Wynn, Douglas J. Scott, James R. Emmett, Horace V. Buckler, William S. Wood, James L. Wilbor, Margie L. Wilbore, Georgeene and Edward Johnson, Jack F. Witten, Oran R. Wilkerson, Jim Smith and Mrs. Dick Watson.

Mr. Guyther explained the procedures with regard to this case as follows: The case was considered via the normal rezoning process resulting in the Board of County Commissioners' requesting that the County Attorney prepare a resolution regarding this rezoning. A rezoning is not official until said resolution has been signed. Thus, staff stressed that this application/property had not been rezoned and the hearing had not been closed. The case, therefore, has not been finalized nor has decision been made. In citing the history of this application, Mr. Guyther further explained that prior to the signing of said resolution, the applicant had requested the opportunity to present additional information. It was the Commissioners' decision that if any additional information was to be provided that it would have to be presented at another public hearing to afford everyone the opportunity to comment on that new information. Therefore, in view of the history and explanation given, Mr. Guyther advised that only the new information would be heard this date, the case would not be reopened in its entirety, as all of the former issues were previously addressed and that this proceeding was scheduled solely to hearing new evidence and commentary from the public regarding those new factors.

At this point, a Mr. Joseph W. Powers, Esq., advised that he wished to ask a question on behalf of the Patuxent Beach Community Association, with respect to a procedural point, quoting from the County Commissioners' minutes of February 21, 1984, and correspondence directed to George R. Aud, President of the St. Mary's County Commissioners from the applicant's attorney, Ms. Karen H. Abrams, requesting opportunity to present additional information concerning the rezoning of the marina to CM. Mr. Powers read aloud Mr. Aud's response, dated March 2, 1984 which in part provided: "Since the public hearing for referenced case has been completed, we cannot approve this request. Of course, the applicant may request and arrange for a new public hearing which would be subject to all requirements of advertising, etc. If your client wishes to arrange for a new hearing, please contact the Office of Planning and Zoning to schedule same." Mr. Powers argued that in view of the referenced contents of said documentation, it would appear that two things had occurred. "At the initial meeting of the Commission, the language approved was made. The County Attorney was directed to prepare the adoption...instructed to prepare the resolution that was adopted at that meeting. Subsequently, Mr. Winslow asked for this hearing to have additional information, to which Commissioner Aud responded that the public hearing for the referenced case had been completed and we cannot approve this request..." Mr. Powers noted that he has written a lengthy letter to the Commissioners which addressed certain issues with respect to the limitations, etc.

NOTE: COMMISSIONER ARNOLD ARRIVED AT THIS POINT

Mr. Powers explained that subsequent to that letter, he received reply from Mr. Guyther, who outlined his position, which had been explained this date with respect to the procedure for this hearing. Mr. Powers took exception with said interpretation, i.e. "There wasn't any final hearing...the resolution hasn't been approved, there hasn't been rezoning, it hasn't been, the regulations haven't been approved and adopted and consequently we're entitled to proceed again." Mr. Powers strongly emphasized, "Now, I've got a serious question concerning that. I don't know, on behalf of the association, that this is not somewhat unusual, but I will say that as

far as we're concerned, an association that wants to be heard in this matter, we find it unusual. We feel that the Commission makes the decision and we wonder if this response was from the Planning Board, and in effect, makes it a procedural point and says, in fact, it's not been done and consequently we're going to reopen this thing." In summation, Mr. Powers asked the Commissioners whether "the Commission, in accordance with the minutes of the February 21st meeting, as stated, voted the question, stated it's been approved and directed the County Attorney to prepare the resolution, which presumably, at that point, would be a matter of form to execute, that's as I understood it."

Commissioner Dean responded that the minutes clearly stated what, in fact, had transpired. He stressed that it was important in any rezoning case that it be clearly known when a decision was made and it was for that reason that some years ago, the County Commissioners adopted a policy and procedure with respect to rezoning cases that the time of the official action in a rezoning case was at the time the Commission voted on a resolution dealing with that case. Thus, the procedures involved public hearing, a discussion session among the members of the Board, at which time the Commissioners would direct their County Attorney to prepare the resolution dealing with the subject case. The official action would transpire when the Board of Commissioners acted on that resolution. Commissioner Dean noted that with respect to the minutes, the word "Approval" which was being questioned, in this instance clearly referenced the approval of the motion which was to direct the County Attorney to prepare the appropriate resolution.

Mr. Powers then questioned what was meant by the phrase contained within Commissioner Aud's correspondence to Ms. Karen Abrams, dated March 2, 1984, specifically, "since the public hearing for referenced case has been completed, we cannot approve this request." Mr. Guyther responded that simply meant that information could not just be submitted to the file, as they were suggesting, that any and all information must be submitted at a public hearing. Mr. Guyther emphasized that the applicant's request was, however, "just to present some additional information to the Commissioners and that is not permitted."

Commissioner Aud commented that the applicant wished to provide some additional information; however, he had not personally felt that the Commissioners could accept any additional information when the case, as far as he was concerned, was closed. The Chair stressed, "It wouldn't be fair to the other side to allow one side and not allow the other side. So, that's the reason it was remanded back; then, they'd have to go back through the process again."

Mr. Powers related that he had specifically asked what the "new information" consisted of. He noted that Mr. Guyther had responded in writing "and in effect said, you're not entitled, we can't tell you that, public hearing..." Mr. Guyther took exception with Mr. Power's statement exclaiming, "That's not true. I said we don't have it yet; there's a big difference." Mr. Guyther specifically referenced his correspondence, dated April 9, 1984, paragraph four (4): "We have no idea what the additional information is. The applicant is not required to present this type of evidence until the hearing opens." Mr. Powers countered, "Again, the applicant is not required to present this information until the hearing. It would only seem to me, on behalf of the association, in the interest of equity, justice that if this information was in the hands, we should have it rather than come here today. I just think it's highly irregular and inappropriate..."

At this point, Ms. Karen Abrams, attorney for the applicant, provided the postal receipts for the record, marked Applicant's Exhibit No. 1, from the certified letters of notification sent to all contiguous property owners. Correspondingly entered and marked Applicant's Exhibit No. 2 was a photograph depicting visual evidence of posting of the property.

Ms. Abrams referenced a portion of the minutes of the County Commissioners' January 31, 1984 meeting wherein Commissioner Dean had stated that he would be in favor of the rezoning to Commercial Marine, if the Commissioners were made aware ahead of time exactly what the limitations were going to be. Commissioner Dean had then suggested that the proposed site plan be prepared with the goal not to get the maximum number of slips that could be physically located there, but to get the number of skips that would make it economically feasible and try to limit others. Ms Abrams offered, "That's our biggest problem here." She stressed that she and the applicant had worked very closely with the Board in trying to adhere to whatever protections might be necessary for the adjoining property owners, environment, etc. However, she stressed that in order to provide those protections, it must be economically feasible from the applicant's point of view to provide them. Counsel remarked that neither she nor the applicant's had been present at the Commissioners' hearing wherein the decision was made with respect to limitation to 36 slips and that no repair work be done on the property. Ms. Abrams commented that when the applicant reviewed the Commissioners' decision with respect to those limitations, "it just totally wiped out any possibility that he could make this project economically feasible and could offer the protections that everybody wants in this project."

At this point, Ms. Abrams turned the presentation over to the applicant, Mr. Buddy Winslow, who provided each of the members with a packet of materials, marked Applicant's Exhibit No. 3, which provided the following: Memorandum to Board of County Commissioners which provided additional information and applicant's request to change two (2) of the restrictions and limitations, previously set forth, i.e., (a) that the maximum number of slips be changed from 36 to 60 with an additional three (3) slips for Mr. Winslow's personal use and secondly, (b) that the boat and motor repair restrictions be changed to no railway or travel lift operation. Said memorandum outlined the economic aspects of the proposed development and offered a chart depicting comparison for improvements, number of slips, current payments, improvement load, tax insurance, statistics for 36 slips versus the newer proposal for 60 slips. Also incorporated in said materials were the recommended guidelines from the State of Maryland Department of Natural Resources for marina parking, correspondence from the Holland Yachts, Inc. to the applicant confirming earlier discussion to dock their fleet of boats at the subject marina, a petition dated March 20, 1984, submitted by local residents in support of the rezoning case with outlined limitations, comparison of similar commercial marine operations in the area, and lastly, site map of the subject area.

The petition submitted by the applicant of those neighbors signing in favor of the proposal was reviewed by the Board, with Mr. Winslow estimating that said petition probably incorporated the names of at least 50% of the residents within this area (Marked Applicant's Exhibit No. 4). Mr. Winslow stated that he wished to emphasize the fact that contained on the front of the subject petition were all of the restrictions which would be placed on the property, "so the people in the area knew what they were supporting..."

Mr. Winslow presented the Board with a series of photographs, marked Applicant's Exhibit No. 5, which provided visualization of the numerous surrounding commercial marinas in the vicinity (numbered to correspond with Enclosure 5 of Applicant's Exhibit No. 3).

Mr. Winslow noted that many of the people present this date, had not been present at the initial hearing and, therefore, had not had the opportunity to see the site plan, which he presented at this point. Mr. Winslow posted a large colored site plan and proceeded to point out the location of the various amenities inclusive of his plan (location of the piers, parking, public bathroom facilities, etc.)

The applicant provided the following statistics and numbers for his latest proposal: The property is comprised of 1,272 ft. of water frontage, 1.0 acres, the standard piers to be utilized would be six ft. in width, a total of 60 parking spaces and 60 boat slips (for 60 boats) will be provided. The railway has been removed and there will be three major piers. Mr. Winslow offered a visual indication of the location of the parking, the public restrooms and the septic field area.

Mr. Floyd Rabil questioned the manner in which the perc test had been conducted on this property. As a contiguous property owner, he voiced concern with the existing sewage problem and the increased probability of additional litter upon his property resulting from sewage, trash, garbage and the dumping of oil emanating from this site.

Mr. Jim Smith inquired whether a question posed at the previous hearing by Commissioner Arnold with respect to the legal ruling of whether sewage from a commercial property was allowed to be "dumped on a residential property" had been received. Commissioner Arnold replied that it had not, and until it was, he would not sign any resolution relative to this matter.

Ms. Abrams voiced that she just wanted to clarify to all present what this action today included. She re-emphasized that this was a nonconforming use, an operating marina, which would not simply "go away," that the applicant would continue his present operation without any restrictions. What the applicant intends is to improve the property and existing operation by installing public bathroom facilities, public septic dumping station, widen the road and upgrade this marina by making it a safer, cleaner and more efficient operation. Without the monies to fund these improvements, the applicant is placed in a situation where it is economically unfeasible for him to make those improvements.

Secondly, Ms. Abrams questioned whether those present were actually members of the Patuxent Beach Citizens Association. She based this concern on the fact that there were over 100 citizens, not part of this group, which had not been invited to attend certain meetings and not included in this organization, represented this date and "not part of the official, quote, Patuxent Beach Citizens Association that may have existed at one time."

Mr. Powers asked whether anyone present this date had signed Mr. Winslow's petition. No one acknowledged same. A Mrs. Carol Butram advised that her mother and brother had signed Mr. Winslow's petition; however, they were guests in her home at the time they signed that document, not residents of the neighborhood. Mrs. Butram also advised that the petition had been re-presented to them by the applicant for the purpose of "some bath houses and had nothing to do with piers and slips."

Mr. Powers spoke at length to this application and note that speaking for those present this date, "We are vehemently opposed to this additional request for additional slips." Mr. Powers felt that the concerns of the community's interest were much more paramount than the applicant's desire to increase his financial holdings. Mr. Powers stressed that the citizenry concerns were those of pollution of the creek, litter, the small size and condition of the road and anticipated increase in traffic which would cause an increased hazardous situation.

In speaking to Ms. Abram's earlier concern relative to the authenticity of the Patuxent Beach Citizens Association, Mr. Powers related that Mr. Watson, known by residents of the community as the founder of this organization was not present this date due to illness. Mr. Powers offered that this was a community association that had been in existence for some time, and the charter of this organization permitted in an emergency situation that the members get together and appear before the Commissioners or any other body to promote the interest of the community. The Charter of

the Patuxent Beach Citizens Association was read aloud into the record. Mr. Powers enumerated on the former record, citing various statements made by various residents in this neighborhood, at which time, Commissioner Dean injected that the Commissioners had afforded Mr. Winslow an opportunity to present his additional information and that it had been stated initially at the beginning of this hearing, that testimony would be limited to commentary on that new testimony presented. In view of same, he asked that Mr. Powers abide by that procedure and therefore limit his testimony to Mr. Winslow's new evidence presented.

Mr. Powers requested that since this new testimony had only been received and reviewed for the first time this date, he requested that the hearing be adjourned to provide the residents with the opportunity to review the information in detail and to be able to respond at a later time.

Commissioner Dean felt that continuance of the hearing was a good suggestion and added that he personally felt that each person present this date should be granted the opportunity to review a copy of Mr. Winslow's latest proposal. Mr. Powers advised that he would personally make copies and would distribute same to "every single person in this group here toady."

Commissioner Dean proposed that the Commission consider the following procedure: That said documentation presented by Mr. Winslow this date be made available to the residents; a suggestion that at a specified point in time, Mr. Winslow meet with the residents of the area to discuss his proposal; and lastly, the Board of Commissioners to agree to keep the record open for a period of thirty (30) days from this date to allow the opportunity for inclusion of any written comment into the record. Following those three steps, the Board would render its decision.

Mr. Powers felt that the Commissioners should restrict this extended period for rebuttal/written commentary solely to those citizens present this date. The Commissioners were unanimous in their feeling that the Board could not restrict public comment to a limited group. Commissioner Aud added that the Board was representing the entire County, not just the people of the Town Creek area and, therefore, the Board could not restrict commentary to just a chosen few. The Chair polled all of his fellow Commissioners who voiced unanimous agreement with Commissioner Dean's outlined procedural proposal.

Mrs. Bettye Rabil asked Mr. Winslow whether there would any dredging in the subject area. Mr. Winslow responded, "There's gonna be no dredging with this site plan here...I plan on bulkheading the area...spending about eleven thousand (\$11,000) dollars in landscaping and trying to improve the property so it's not an eyesore."

Mr. Powers asked whether the number of slips would limit the number of boats. Commissioner Dean responded that the Board had made a decision during previous relative discussion, whereupon it had determined that one (1) slip would equal one (1) boat.

The Chair advised that the cut-off date for acceptance of written commentary would be May 21, 1984, with the County Commissioners subsequent consideration of the matter on May 22, 1984. Commissioner Aud stressed that while the public was welcomed to attend, no additional oral testimony would be accepted at that time.

Commissioner Dean requested that the County Attorney respond to Commissioner Arnold's earlier question with respect to the placement of the septic system on the adjacent residential lot.

Mr. Jack Witten asked whether a copy of the resolution or ordinance could be acquired from the Office of Planning and Zoning which

governed the rezoning process formerly described by Commissioner Dean relative to "the interim between when a resolution is discussed and when it is signed and the process that governs limiting the discussion at that next meeting to certain subject matter." Mr. Powers added that what Mr. Witten was attempting to address was what he had raised initially, i.e., legality of the procedure with respect to this approval.

Commissioner Dean responded that there were no ordinances that dealt specifically with the procedure for making a decision. Mr. Dean continued that neither Article 66B of the Annotated Code of Maryland nor the County's Zoning Ordinance prescribed the procedure by which the Commissioners reached a decision in a zoning matter. It did, however, grant to the local legislative body the authority to make the decision and it was, therefore, up to that local legislative body to adopt the procedures by which that was accomplished. It was pointed out that said procedure had been explained this date.

Hearing closed, however, the case will remain open solely for the acceptance of written comment up to May 21, 1984.

TALL TIMBERS SPECIAL TAXING DISTRICT

Present: Carol Neustadt, Tall Timbers Property Owner
John Wiley, " " " "
Margaret Andrews, " " " "
Ann Scheele, " " " "
Anthony Wildt, " " " "
John Morris, County Engineer
Jay McGrath, Engineering Technician

The referenced property owners of Tall Timbers appeared before the Commissioners to request the establishment of a Special Taxing District for the purposes of replacing, repairing and maintaining the seawall at Tall Timbers in order to prevent further erosion.

Ms. Neustadt advised that the proposed District is just south of the existing Tall Timbers Shore Erosion District and submitted a petition from the property owners requesting the establishment of this new district. She stated that the five property owners have signed the petition for establishing the district and there is an indication of interest from other property owners south of the area who may be included.

Mr. Morris advised that the next step is to submit the petition to the Department of Natural Resources for a feasibility study. An indication has been received from the Shore Erosion Section of DNR that there is funding available for this project. Once the District is established, emergency repairs can be made which will be included in the District's costs.

Commissioner Dean suggested that the other individual property owners in the area be given a quick opportunity to be included, but agreed that the project should not be delayed.

After discussion, the Commissioners authorized Mr. Morris to proceed with the establishment of the Special Taxing District.

SHERIFF'S DEPARTMENT - FY '85 BUDGET

Present: Sheriff Wayne Pettit
Lt. Gene Pellillo
Joseph O'Dell, Director, Budget & Data Services

Sheriff Pettit and Lt. Pellillo appeared before the Commissioners to request their reconsideration for additional allocation in the Sheriff's Department's FY '85 Budget for funding of nine additional deputies and four

additional jailers, plus related costs. Sheriff Pettit distributed the 1983 Annual Report which he stated presented an overview of the Department's activities and outlined the scope of responsibilities.

After discussion, the Commissioners thanked Sheriff Pettit for his presentation and advised that a decision would be made after the FY '85 Budget Public Hearings.

DOMESTIC VIOLENCE TASK FORCE REPORT

Present: Ragina Chikar, Chairperson
Ann Marie Abell
Dorothy Barclift
Ruth Coombs
Lynn Fitrell
Ila Rogers

The referenced members of the Domestic Violence Task Force appeared before the Commissioners to present a report, which includes issues addressed by the Task Force and the following recommendations:

1. That the programs for spouse abuse and sexual assault be combined.

Rationale: By combining the programs, more effective use of services and care providers time and resources will be achieved. Also, many outside sources for funding are available for combined programs.

2. That the combined program be administered by a Board of Directors, appointed by the St. Mary's Board of County Commissioners, whose purpose it would be to purchase services for the victims of spouse abuse, the children of those families, the abuser, and the victims of sexual assault and their families. The Task Force recommends that this Board of Directors be comprised of the existing Domestic Violence Task Force members and the members of the Sexual Assault Committee of the St. Mary's County Commission for Women.

Rationale: An independent Board of Directors would be able to exercise impartial and equal treatment and evaluation of all existing services. The independent Board would be able to use the funding available to purchase the most comprehensive services from among all agencies, not concentrating on one particular agency. The Board would be able to avoid duplication of services.

3. That the combined program encompass, but not be limited to, the following: Counselling; hot-line and walk-in services; crisis intervention; community education and information services; court/legal advocacy; support groups for abused persons; counselling services for abusers.

Rationale: Based upon the Task Force's investigation, these services seem to be of paramount importance to provide a comprehensive program for St. Mary's County.

4. That St. Mary's County apply for funding from outside sources to supplement the monies received from the increased marriage license fees.

Rationale: The Maryland State Department of Human Resources is currently taking proposals for funding of spouse abuse and sexual assault programs. Other funding sources may be available, also. The income from the increased marriage license fee amounts to \$2,040 as of March 31, 1984. Estimates are that purchase of care for approximately 27 persons, at \$15/day, for five days. This would not take into consideration any other expenses besides purchase of shelter. Outside funding must be sought to provide a viable program for St. Mary's County.

After discussion, Commissioner Aud moved, seconded by Commissioner Arnold, to accept the recommendations of the Domestic Violence Task Force as set forth above including the appointment of members to the Domestic Violence/Sexual Assault Board of Directors. Motion unanimously carried.

Further, Commissioner Dean moved, seconded by Commissioner Arnold, to authorize Commissioner President Aud to sign the RFP to be submitted to the State Department of Human Resources for funding of Program. Motion unanimously carried.

EQUIPMENT LEASE/PURCHASE AGREEMENT

Present: Joseph O'Dell, Director, Budget & Data Services

Mr. O'Dell presented for the Board's approval and signature the Equipment Lease/Purchase Agreement by and between Maryland National Leasing Corporation and St. Mary's County for the County's Highway Maintenance facility equipment, along with the following Exhibits:

- Exhibit A - Description of Equipment
- Exhibit B - Acceptance of Certificate
- Exhibit C - Schedule of Payments
- Exhibit D - Resolution of Governing Body/Extract of Minutes
(as set forth below)
- Exhibit E - Incumbency Certificate
- Exhibit F - Opinion of Lessee's Counsel
- Exhibit G - Essential Use/Source of Funds Letter

EXHIBIT D - RESOLUTION OF GOVERNING BODY/EXTRACT OF MINUTES

Lessee: St. Mary's County

Equipment Lease/Purchase Agreement dated: April 17, 1984

At a duly called meeting of the governing body of Lessee held in accordance with all applicable legal requirements, including open meeting laws, on the 17th day of April, 1984, the following resolution was introduced and adopted:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN EQUIPMENT LEASE/PURCHASE AGREEMENT, AND RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the governing body of St. Mary's County ("Lessee") has determined that a true and very real need exists for the equipment (the "Equipment") described in the Equipment Lease/Purchase Agreement (the "Agreement") presented to this meeting, and

WHEREAS, Lessee has taken the necessary steps, including those relating to any applicable legal bidding requirements, to arrange for the acquisition of the Equipment; and

WHEREAS, Lessee proposes to enter into the Agreement substantially in the form presented to this meeting.

NOW, THEREFORE, be it resolved by the governing body of lessee as follows:

Section 1. It is hereby found and determined that the terms of the Agreement in the form presented to this meeting and incorporated in this resolution, are in the best interests of Lessee for the acquisition of the Equipment.

Section 2. The Agreement is hereby approved. The President of the Board of County Commissioners of Lessee and any other officer of Lessee who shall have power to execute contracts on behalf of Lessee be, and each of them hereby is, authorized to execute, acknowledge and deliver the Agreement with any changes, insertions and omissions therein as may be approved by the officers who execute the Agreement, such approval to be conclusively evidenced by such execution and delivery of the Agreement. The President of the Board of the Lessee and any other officer of Lessee who shall have power to do so be, and each of them hereby is, authorized to affix the official seal of Lessee to the Agreement and attest the same.

Section 3. The proper officers of Lessee be, and each of them hereby is, authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and the Agreement. The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect and further certifies that the within Equipment Lease/Purchase Agreement is the same as presented at said meeting of the governing body of Lessee.

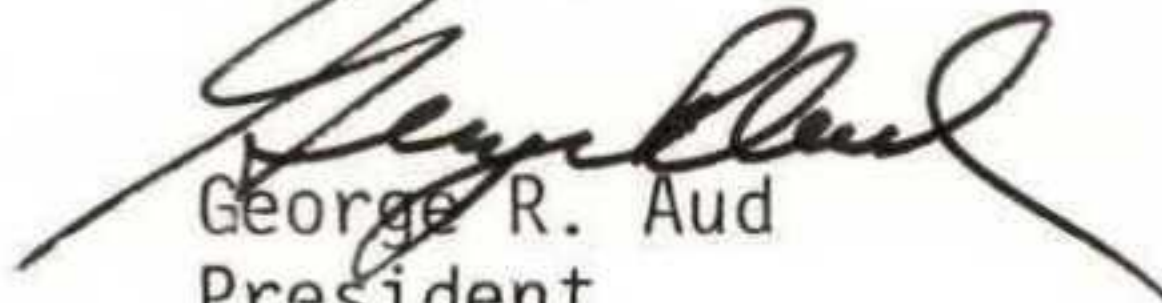
Commissioner Dean moved, seconded by Commissioner Arnold, to authorize Commissioner President Aud to sign said Lease/Purchase Agreement along with all related Exhibits. Motion unanimously carried.

EXECUTIVE SESSION

Present: Gerda Manson, Personnel Officer

Commissioner Aud moved, seconded by Commissioner Sayre, to meet in Executive Session in order to discuss matters of Personnel. The Session was held from 4:10 p.m. to 5:20 p.m.

Approved,


George R. Aud
President