

BOARD OF COUNTY COMMISSIONERS' MEETINGTUESDAY, OCTOBER 2, 1984

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

CALL TO ORDER

Commissioner Aud called the meeting 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, September 18, 1984 as submitted. Motion carried.

Commissioner Dean moved, seconded by Commissioner Arnold, to approve the minutes of the Commissioners' meeting of Tuesday, September 25, 1984. Motion carried.

APPROVAL OF BILLS

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

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator  
 John Norris, County Engineer  
 Edward Curley, Jr.

Commissioner Arnold moved, seconded by Commissioner Sayre, to meet in Executive Session in order to discuss a matter of litigation. Motion carried. The Session was held from 9:20 a.m. to 10:15 a.m.

WILDEWOOD BOULEVARD AND WHITE OAK PARKWAY  
 WILDEWOOD SUBDIVISION

Present: Michael Wettengel (Wildewood)  
 John Norris, County Engineer

As a follow up to last week's discussion, Michael Wettengel, on behalf of the developer of Wildewood, appeared before the Commissioners to site the developer's reasons for wanting a year's extension for the Public Works Agreements for the referenced roads and to respond to the County Engineer's comments. At last week's meeting, Mr. Norris gave three reasons for not granting the extension: (1) traffic control, (2) winter maintenance, and (3) by-pass lane to the condominiums. The work required by the County Engineer for the completion of the roads is as follows: one-inch additional asphalt, curbing and passing lane to condominiums.

(1) Traffic Control

Mr. Wettengel stated that traffic control devices have been installed and are being enforced. He presented correspondence dated September 26, along with an excerpt from the State Transportation Article, from the Administrator of the Sheriff's Department stating that it is possible to enforce traffic laws.

(2) Snow Removal

Mr. Wettengel stated that the County has been removing the snow from the roads for the past three years and would like them to continue to do so.

Mr. Wettengel pointed out that because there are still more condominiums to be built the road would be subject to damage from construction trucks, the developer wanted to wait until this work was completed. If the additional inch of asphalt was laid and the County took over the roads, Mr. Wettengel stated that for the County to make those repairs would be more of a maintenance problem than snow removal would be.

Mr. Wettengel further stated that the developer wanted the dualization of Rt. 235 to be completed prior to completing Wildewood Boulevard for continuity and aesthetic reasons.

During discussion Mr. Norris mentioned that until the roads are turned over to the County there is a lost of gasoline tax revenues.

Prior to making a decision on this matter, the Commissioners directed that the County Attorney be contacted for an opinion regarding the letter from the Sheriff's Department concerning traffic law enforcement and that Mr. Norris obtain an estimate of gasoline tax revenues that would be generated from the referenced roads.

Later in the meeting after further discussion, the Commissioners agreed to grant an extension to the Public Works Agreement from October 1, 1984 to June 30, 1985. The reason for granting the extension is because of the ongoing reconstruction of Rt. 235 delaying the construction of Wildewood Boulevard intersection. Further, the Commissioners approved the following:

1. That the County will take the appropriate action to enable it to establish and enforce traffic control provisions, and
2. That the County will continue to plow the snow on Wildewood Boulevard on the condition that the developer pay the equivalent of the gasoline tax revenue on a pro-rata basis.

STATE OFFICE COMPLEX COMMITTEE  
ENGINEER'S REPORT

Present: Thomas L. Gaudreau, Gaudreau, Inc.  
Edward L. Gray, " "  
Abell Longmore, Committee Member  
Clarke Raley, " "  
James Neal, " "  
Edward Cox, County Administrator  
John Norris, County Engineer

Representatives of the Engineering firm of Gaudreau, Inc. appeared before the Commissioners to present the Evaluation Phase Study on the Renovation and Conversion of the Former St. Mary's Hospital to an Office Complex for State Agencies. By way of charts, Mr. Gaudreau and Mr. Gray summarized the evaluation including all existing architectural systems (electrical, mechanical, plumbing, etc.) and site plan considerations, including parking along with cost information for all renovation items. Mr. Gaudreau reviewed a cost breakdown summary for renovations of existing building and for a new building. (Total estimated project cost for renovations - \$4,089,000; total estimated cost for new building - \$3,490,000).

At the conclusion of the presentation, Mr. Gaudreau advised that it was the architect/engineer's findings that the building as use for a state office complex was inefficient from a structural, mechanical, repair and use standpoint and recommended that the building not be used for such a purpose.

Mr. Longmore indicated that the Committee endorsed the engineering firm's recommendation that the building not be used as a state office complex.

After the presentation the Commissioners discussed a variety of related issues that will be reviewed in coming weeks subsequent to a

decision on the use of the old hospital as a state office building. After discussion the Commissioners unanimously agreed to accept the recommendation of the engineering firm of Gaudreau and of the State Office Complex Building Committee not to use the old hospital building as a state office building for the reasons stated in the engineer's report and further to initiate the appropriate study to locate the state office building at the Governmental Center property.

OFFICE ON AGING FY '83-'84 GRANT - TITLE III

Present: Billye McGaharn, Senior Services Coordinator

Mrs. McGaharn advised the Commissioners that she has requested and received verbal approval from the State Office on Aging for a waiver of certain fiscal requirements for the referenced grant. Contingent upon written approval of said waiver, she requested from the Commissioners an approval of the transfer of funds which was outlined in documents she presented to the Board. The Commissioners accepted Mrs. McGaharn's request and agreed that upon written confirmation from the State they would take final action.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) 1985 LEGISLATIVE PACKAGE

The County Administrator requested concurrence from the Board that the public hearing on the legislative package be held Thursday, October 25 at 7:30 p.m. at the Southern Maryland Electric building in Leonardtown. The Commissioners gave their concurrence. Contact will be made with our legislative delegation concerning this date.

Commissioner Arnold stated that he may have an item to include in the package, relative to the assessment of farmland as residential once it is no longer being farmed. The County Administrator was directed to invite Mr. Lawrence of the Assessment Office to discuss with the County Commissioners this issue to determine if legislation is necessary.

2) PERSONNEL

The County Administrator presented the following items of Personnel for decision by the Board:

a) Tourism Development Specialist  
Dept. of Economic & Community Development

Memorandum dated October 2, 1984 from Personnel Officer recommending the appointment of Christine Clarke to the position of Tourism Development Specialist, Grade 11, effective October 8, 1984. The Commissioners gave their concurrence.

b) Maintenance Mechanic/Painter  
Office of County Engineer

Memorandum dated September 28, 1984 from Personnel Officer recommending that the Commissioners appoint John Hewitt to the position of Maintenance Mechanic/Painter, Grade 9, effective October 8, 1984. Commissioner Sayre moved, seconded by Commissioner Arnold, to accept this recommendation. Motion carried.

c) Fiscal Clerk Position  
Office on Aging

Memorandum dated September 28, 1984 from the Personnel Officer requesting authority to advertise the Fiscal Clerk I, Grade 6, position in the Office on Aging vacated by the promotion of Connie Bromley. The Commissioners gave their concurrence. !b

d) Fiscal Clerk III  
Dept. of Economic & Community Development

Memorandum dated September 27, 1984 from Personnel Officer recommending the selection of Barbara Dotson, who is currently a Fiscal Clerk in the Office of Purchasing & Logistics, to a lateral transfer to this position, Grade 8, vacated by the transfer of Brenda Hewitt, effective on or about October 22, 1984. Commissioner Arnold moved, seconded by Commissioner Sayre, to accept this recommendation. Motion carried.

e) Fiscal Clerk III  
Office of Purchasing and Logistics

Memorandum dated September 28, 1984 from the Personnel Officer requesting authority to advertise for the Fiscal Clerk, Grade 8, position in the Office of Purchasing and Logistics. The Commissioners gave their concurrence.

f) Permanent Part-Time Clerk-Typist  
Office of County Engineer

Memorandum dated October 2, 1984 from the Personnel Officer recommending the selection of Ann Mueller to the permanent part-time Clerk Typist position, Grade 5, effective October 8, 1984. Commissioner Dean moved, seconded by Commissioner Sayre, to accept this recommendation. Motion carried.

g) Clerk Typist  
Office on Aging

Memorandum dated October 2, 1984 from Personnel Officer requesting authority to fill the Clerk Typist position, Grade 5, vacated by the resignation of Mary Fender. Funds are provided by the RSVP Grant. The Commissioners gave their concurrence.

h) Engineer I Position  
Office of County Engineer

Memorandum dated October 2, 1984 from Personnel Officer recommending the appointment of Joaquin (James) Madonado to the Engineer I position, Grade 13, effective October 8, 1984. Commissioner Dean moved, seconded by Commissioner Sayre, to accept this recommendation. Motion carried.

3) ORDINANCE NO. 84-28  
MARYLAND TRANSPORTATION BONDS  
FIRST ISSUE - SEVENTH SERIES  
(WITH PARTICIPATION AGREEMENT)

Having conducted the public hearing on September 18, 1984, the County Administrator presented the referenced Ordinance and Participation Agreement for the County's participation with Maryland Department of Transportation for the issuance and sale of County Transportation Bonds in an amount not to exceed \$1,600,000.

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

4) PARENT RESOURCES FOR EMPLOYMENT PROGRAM  
APPROVAL OF CONTRACT WITH PRIVATE INDUSTRY COUNCIL

The County Administrator presented the referenced Contract with Southern Maryland Private Industry Council in the amount of \$49,616 to St. Mary's County for the Parent Resources for Employment Program (PREP).

Commissioner Aud moved, seconded by Commissioner Dean, to approve and sign said Contract. Motion carried.

5) CLEARINGHOUSE PROJECT NO. MD 84-9-972  
MDOT MASS TRANSIT ADMINISTRATION  
PUBLIC TRANSIT ASSISTANCE FOR NON-URBANIZED AREAS

The County Administrator presented the referenced clearinghouse project and recommended that it be forwarded to the State with the comment that it is not inconsistent with this agency's plans, programs or objectives. The Commissioners gave their concurrence.

6) RESOLUTION NO. 84-20A  
AMENDMENT - IDENTIFICATION OF PROJECT OWNER  
ECONOMIC DEVELOPMENT REVENUE

The County Administrator presented the referenced Resolution Amendment changing the name of the project owner from Wildewood to Exploration Partners.

The Commissioners gave their concurrence in approving said Resolution.

7) PRELIMINARY APPLICATION FOR GROUP INSURANCE

The County Administrator advised that the life insurance company that has been handling the county's group life insurance has been sold and purchased by another company, Mutual Benefit Life Insurance Company, and approval is needed by the Board to sign the referenced Application.

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

8) STATE SURPLUS PROPERTY  
MD. RT. 4 AND 235

The County Administrator reminded the Commissioners of previous discussion concerning the clearinghouse project regarding the landlocked state surplus property on Rt. 4 and 235. The Office of Planning and Zoning had suggested the possibility of a county information center at that location. The Chamber of Commerce has submitted a letter dated September 28, 1984 endorsing the concept and Mr. Cox recommended that the Commissioners indicate to the State the County's interest in obtaining the property pending further investigation and resolution of a variety of details. The Commissioners gave their concurrence.

9) CLASSIFICATION STUDY FOR COUNTY GOVERNMENT

As a follow up to a previous memorandum dated September 6, 1984 to the Board, the County Administrator requested the Commissioners' endorsement to proceed with soliciting proposals to conduct a classification study of positions in St. Mary's County Government. He stated that there are funds in the Special Studies Account to pay for this study.

The Commissioners gave their concurrence.

10) METROPOLITAN COMMISSION - CASH FLOW

Request was received from the Metropolitan Commission for a loan not to exceed 30 days in the amount of \$50,000 at the current rate of interest as an advance until such time as anticipated funds are received.

The County Administrator requested the Commissioners formal endorsement of an emergency action taken on Thursday, September 27 to advance to the Metropolitan Commission the amount of \$50,000 for a period not to exceed 30 days at the current market rate of interest. The Commissioners confirmed their approval.

PUBLIC HEARING  
TEXT AMENDMENTS TO ZONING ORDINANCE

PUBLIC HEARINGS  
OFFICE OF PLANNING AND ZONING

1:00 P.M.

Commissioners present: George Aud, Ford Dean, David Sayre and Richard Arnold. Commissioner Larry Millison was absent. Staff present: Frank Gerred, Director and Anita Meridith, Recording Secretary, Office of Planning and Zoning.

Members of the audience included: Lawrence Wayne Caples, Viki Volk, Matt Kaye, Jack Witten and Bradford Reeves.

Mr. Gerred read the notice of public hearing aloud, as advertised in the Enterprise Newspaper in the Friday, September 14, 1984 issue, providing legal notification of the following proposed text amendments:

ZONE # 84-1236: TEXT AMENDMENT TO ZONING ORDINANCE  
(PENALTIES)

Article 71.04.2 - Civil Violations. Change "Article 25" to "Article 23A, Sec. 3(b) (8) through (15)."

Mr. Gerred explained that in reviewing the Ordinance on violations, staff had discovered that the wrong State citation was made for court decisions. The proposed text would correct that error.

ZONE # 84-1312: TEXT AMENDMENT TO ZONING ORDINANCE

Requesting a change in DAY-CARE/CHILD CARE CENTERS to align Zoning Ordinance regulations with State Health Department regulations. This amendment would change the maximum children considered "baby-sitting" to seven (7) and not subject to the regulations. The amendment would also add administrative requirements for Small Group Day Care Centers (7-12 children) to Article 5, and clarify Child Care Centers serving more than 12 children shall be treated as Schools for the purposes of administration of the Zoning Ordinance.

Mr. Gerred stated that the local Health Department, (responsible for the regulation of day care centers in the County) had brought to staff's attention that there was currently "a big push state-wide" to encourage private day-care centers since the closure of most of the larger public day care centers. The proposed text would align the State regulations with the Zoning Ordinance. The Planning Commission offered a positive recommendation with respect to this proposed text amendment (September 24, 1984).

Commissioner Aud asked whether anyone present wished to speak in favor or opposed to either of the first two proposed text changes (penalties/day-care/child care centers). Hearing no response, the Chair advised that the hearing(s) would be closed and the matters taken under advisement by the Board.

ZONE # 84-0998: TEXT AMENDMENT TO ZONING ORDINANCE

A proposed change in the Zoning Ordinance to reduce the minimum lot size in the AR, Agricultural-Residential Zoning District from 1.5 acres to 1.0 acre by rezoning all AR land to R-1 (Rural-Residential).

Mr. Gerred called the Board's attention to correspondence contained within their packages from the Department of State Planning, which offered various suggestions and extended their assistance. Staff called attention to pages 112 and 116 of the first article, which in essence noted that the larger lot size could impact the preservation of agricultural land. These provided materials were given as various studies of agricultural preservation by the Department of Agriculture, the American Society of Planning Officials, etc.

The Chair inquired whether anyone present wished to speak either in favor or opposed.

Mr. Lawrence Wayne Caples advised that while he had not had the opportunity to review the proposal in detail, he hoped to be able to present a more detailed analysis to the Planning Commission at their October 8th meeting. Mr. Caples felt that the Zoning Administrator had only "touched the tip of the iceberg" with respect to this proposal. Mr. Caples referenced materials from State Planning entitled "Planning Advisory Services" which outlined several programs, designed to preserve the integrity of an agricultural section of the County, yet, at the same time, not detracting from the possibilities of useful development. Those options included the Model Quarter/Quarter Ordinance (currently adopted in Baltimore and Montgomery Counties), Sliding Scale and Large Lot Zoning. Mr. Caples voiced concern with the fact that no study or analysis had been conducted by the County to determine whether any of those concepts might be acceptable either in whole or in part and he stressed, "I think it's necessary to recognize that there is a need for development, and there's massive developmental pressures occurring and a need for affordable housing, but I think along with that, we have to be aware that it's not necessarily throw out the baby with the bath water, that it's possible, to, in fact, have the two work side by side." Mr. Caples urged the Commissioners to take the time to consider all the options regarding modification of the AR District, "so that we have the best of both worlds."

Commissioner Aud noted that Mr. Caples had mentioned those policies currently being implemented in Baltimore and Montgomery Counties. He felt that those two jurisdictions were largely metropolitan areas and could not be compared with the major agricultural community in St. Mary's County. The Chair recalled that prior to the adoption of Comprehensive Zoning of the County in 1974, the Zoning Board had recommended three acre lots and through subsequent negotiation, an acre and a half had been derived. Commissioner Aud stated that he personally felt that "the more acreage you take off, the more acreage you're taking away from the farm area." Mr. Caples felt that another option that might be considered would be the ability of the County Commissioners to grant a variance in the acreage. Mr. Aud questioned how a property owner would get a variance from the federal government, as FHA would only approve funding for over an acre.

Commissioner Arnold stressed that it had never been the intention of the Board to abolish agricultural zoning in St. Mary's County per se, and rezone those properties to R-1. Mr. Arnold stated, "I never want to see the agricultural community in this County lose its identity as an agricultural community. However, I do see the need, from people that I talk to...who have come time and time again and said, this is something that we would like to see considered..."

Mr. Caples urged that the Board take this opportunity to analyze all of the options available, to insure that future generations would be assured of a homeplace on the family farm and that the integrity of the agricultural heartland of the County be maintained.

Mr. Jack Witten asked whether the acquisition of a variance from the Planning Commission would present a major impediment. Mr. Gerred responded that State law provided that the density could not be varied. Mr. Gerred noted that if the public interest was to be served by the Ordinances' acreage minimums, it would not be served by having an acre and a half.

Commissioner Dean related that he personally felt that whenever there was a regulatory restriction imposed, there should be a reason for that restriction and same should accomplish some public purpose. In this instance, he felt that those reasons should be fully documented, i.e. what public purpose was served by having an acre and a half minimum in the AR District, as opposed to an acre. Mr. Dean recalled that the acre and a half occurred somewhat by accident. He explained that during the formation of the Comprehensive Land Use Plan adopted in 1974, the consultant had recommended that the Agricultural-Residential District contain three acre minimum acreage. This recommendation did not receive the necessary public support and thus the acre and a half was derived somewhat as a compromise. Commissioner Dean reiterated, "The acre and a half was something arbitrarily arrived at, without any developed purpose that I can see. So, the situation that we have in St. Mary's County, is that roughly if you go down Route 235, everything from there to the water is an acre. If you go down Route 5, everything from there to the Potomac is an acre and everything in the center is an acre and a half and I don't know what public purpose is served by that and that's what I would be interested, in any input, as to what is."

Mr. Witten asked the Commissioners, "What is the driving reason that the Commissioners want to change this? Do they want to do it to save agricultural land, do they want to do it to make it possible for people to qualify for a Farmer's Home Administration loan or do they want to do it to get an equitable distribution in the lot size through the County, so that the upper County gets their fair share? Commissioner Arnold responded, "All three." Commissioner Dean offered his own personal experience, as an example. Mr. Dean lives on Rt. 235 on the east side - requires one acre minimum. However, his neighbor directly across the highway is required to have an acre and a half. Commissioner Dean questioned what was "equitable" in this situation. Mr. Dean reiterated that there "should be a rational basis, some public good accomplished by it." Commissioner Dean stressed that equitable distribution and the current problems experienced by FHA were the two "driving forces" behind the proposal. In conclusion, Mr. Witten strongly recommended that the County conduct an in-depth analysis and take advantage of the offer of assistance from State Planning prior to the County's developing a public position on a program aimed towards preservation of farmland in St. Mary's County.

Commissioner Arnold spoke at length to several of the economic problems facing the farmer today, e.g. inequities in taxing/assessment policies, inflation as it relates to the cost of farming and general economic trends. In conclusion, he offered that the Board would certainly do everything possible to offer assistance to the agricultural community in St. Mary's County.

Mr. Bradford Reeves responded to a former comment relative to the fact that acre and a half zoning did not accomplish anything. He noted that he had formerly served on the original commission responsible for the work-up of the plan which eventually was adopted as the County's Comprehensive Land Use Plan. He reflected that the committee had "fought for some time to have the agricultural zone as a five acre zone, but it finally went through the committee, it came out as a three acre zone and when it finally was adopted it came out as an acre and a half zone." Mr. Reeves noted that the reasoning behind the larger acreage had been the concern and concerted effort to prevent "sprawl development" and "it would be pressuring development into those areas into which it could be handled and adequately served and to me, this is the thing that is most important." Mr. Reeves stressed, "I agree with you, that it doesn't make much difference if it's an acre and a half or an acre, except for the fact that I think we're moving in the wrong direction. I think it ought to be five acres, maybe twenty acres." Mr. Reeves spoke to the State's current program, specifically aimed towards agricultural preservation through sale of development rights. He urged the Commissioners to consider the development of "some funds at the County level, to be made available for the matching program in the agricultural land preservation program." Mr. Gerred injected that there were currently four applications pending for the sale of easements in St. Mary's County. He also advised that there were!



monies in the matching fund segment. While this fund may not be as large as those in some of the other counties, St. Mary's has taken that portion of the development tax and created a fund for this special purpose.

This concluded all testimony and the Chair noted that the hearing would be closed, with the Board taking the matter under advisement.

EXECUTIVE SESSION

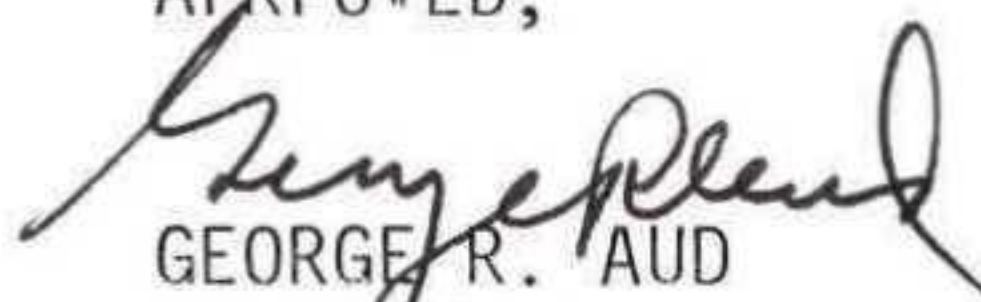
Present: Edward V. Cox, County Administrator  
Joseph Mattingly, Jr., Assistant State's Attorney

Commissioner Dean moved, seconded by Commissioner Aud, to meet in Executive Session in order to discuss a matter of Personnel. Motion carried. The Session was held from 2:02 p.m. to 2:55 p.m.

ADJOURNMENT

The meeting adjourned at 3:20 p.m.

APPROVED,

  
GEORGE R. AUD  
PRESIDENT