

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, November 13, 1984

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

(Commissioner Millison was not present due to illness.)

(Commissioner Dean was not present at the beginning of the meeting.)

CALL TO ORDER

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

APPROVAL OF BILLS

Commissioner Aud moved, seconded by Commissioner Sayre, to approve payment of the bills as submitted.

APPROVAL OF MINUTES

Commissioner Dean moved, seconded by Commissioner Arnold, to approve the minutes of the Commissioners' meeting of Monday, October 29, 1984 as submitted. Motion carried. (Approval of the minutes took place later in the meeting after Commissioner Dean arrived.)

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

- 1) QUIT CLAIM DEED
FRANKLIN D. ROOSEVELT BOULEVARD

The County Administrator advised that Attorney Joseph E. Bell has forwarded a Quit Claim Deed for Franklin D. Boulevard for execution by the Board; however, in that the County is in the process of developing a transportation plan for Lexington Park, it is recommended that the Board not take a position on this Deed until completion of the plan. The Commissioners gave their concurrence.

- 2) BUDGET AMENDMENTS

The County Administrator presented the following Budget Amendments recommended for approval by the Budget Director with Justifications for Adjustment as indicated:

- a) No. 85-30
County Engineer

Justification: Additional authority to meet Fire Marshall's requirement for smoke detectors and alarm system in county jail.

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- b) No. 85-32
County Engineer

Justification: Transfer funds to account required so due invoice can be expedited and paid.

Commissioner Arnold moved, seconded by Commissioner Aud, to approve and sign said Budget Amendments. Motion carried.

(COMMISSIONER DEAN ENTERED THE MEETING - 9:20 a.m.)

3) APPOINTMENTS
BOARDS, COMMITTEES AND COMMISSIONS

Commissioner Sayre moved, seconded by Commissioner Aud, and unanimously carried, to make the following appointments for terms as indicated:

Human Relations Commission

Ralph Butler for a term to expire June 30, 1986

Social Services Board

Catherine Giovannoni for a term to expire June 30, 1985

4) RESOLUTION NO. 84-36
ICMA RETIREMENT CORPORATION
DEFERRED COMPENSATION PLAN

The County Administrator explained that the County has a Deferred Compensation Plan which is administered through payroll deductions by the Director of Finance, and it is necessary to adopt a Resolution for the establishment of the Plan. Therefore, Mr. Cox presented the referenced Resolution executing the ICMA Retirement Trust and designating the Director of Finance as the coordinator.

Commissioner Aud moved, seconded by Commissioner Sayre, to approve and sign Resolution No. 84-36. Motion carried.

(COMMISSIONER DEAN ENTERED THE MEETING - 9:20 A.M.)

5) STATE EMERGENCY OPERATIONAL PLAN
ATTACK-RELATED SITUATIONS

The County Administrator advised that the State Civil Defense Director has requested the County's assistance in requesting the Maryland General Assembly to reconsider its position regarding prohibition of addressing attack-related situations in the State Emergency Operational Plan. Such prohibition make the State Plan unacceptable to the Federal Emergency Management Agency for allocation of certain federal funds and eliminates those funds from Maryland's use. Therefore, Mr. Cox presented a letter to our legislative delegation in support of the State Civil Defense Agency's position and requesting reconsideration. The Commissioners agreed to sign and forward said letter.

6) TRI-COUNTY YOUTH SERVICES BUREAU
PORCH AREA IMPROVEMENTS

The County Administrator presented correspondence for the Commissioners' review and signatures addressed to the Tri-County Youth Services Bureau authorizing the upgrading of the rear porch area of the office building. The Commissioners agreed to sign and forward said letter.

7) PUBLIC WORKS GRANT
COUNTY AIRPORT EMPLOYMENT CENTER

The County Administrator presented correspondence to the Economic Development Administrator requesting an EDA Grant in the amount of \$949,000 for the development of and running a sewer line to county-owned land adjacent to the Airport. The Commissioners agreed to sign and forward said letter.

EXECUTIVE SESSION

Present: Dr. Larry Lorton, Superintendent of Schools
Will Dorhman, St. Mary's Public Schools
Edward V. Cox, County Administrator

Commissioner Aud moved, seconded by Commissioner Arnold, to meet in Executive Session in order to discuss a matter of land acquisition. Motion carried. The Session was held from 9:30 a.m. to 10:30 a.m.

BOARD OF EDUCATION
CAPITAL IMPROVEMENT PROGRAM

Present: Dr. Larry Lorton, Superintendent of Schools
Charles Himmelheber, Public Schools

The above Public School representatives appeared before the Commissioners to present the St. Mary's Board of Education's Capital Improvement Program for FY '86 - '91 and to request approval of same. Mr. Himmelheber reviewed the particulars of the Program and advised that once the Commissioners approve it, the Program must be submitted to State.

After discussion, Commissioner Dean moved, seconded by Commissioner Sayre, to approve the St. Mary's Board of Education Capital Improvement Program for FY '86-'91. Motion carried.

Resolution No. 84-35

Later in the meeting the Resolution approving the St. Mary's Board of Education's Capital Improvement Program was presented. Commissioner Dean moved, seconded by Commissioner Sayre, to sign Resolution No. 84-35. Motion carried.

JOB TRAINING PARTNERSHIP ACT
PRIVATE INDUSTRY COUNCIL

Present: Jim Mayola, JTPA Program Administrator

Mr. Mayola appeared before the Commissioners to advise them of the Incentive Award funds received by the Southern Maryland Service Delivery Area of the Job Training Partnership Act - Private Industry Council. He presented a chart of actual performance by Southern Maryland compared to the performance standards for the period October 2, 1983 through June 30, 1984 and stated that out of a potential \$40,134, Southern Maryland received \$34,917.

Mr. Cox pointed out that the Southern Maryland Private Industry Council has been recognized as the most active and innovative in the State.

In conclusion, the Commissioners expressed their appreciation to Mr. Mayola for his presentation and to the Council for its efforts in the Program.

METROPOLITAN COMMISSION
PINEY POINT SEWAGE TREATMENT PROJECT

Present: Larry Petty, Director, Metropolitan Commission
Steve King, Metropolitan Commission
Frank Gerred, Director, Office of Planning & Zoning

The referenced representatives of the Metropolitan Commission appeared before the Commissioners to present a update of the treatment of sewage from the Piney Point area by way of a "pump-over" to the Pine Hill Run Treatment Plant and to request the Board's approval of this plan.

Mr. King distributed an outline of the background and issues involved and pointed out concerns expressed by the State which could jeopardize approval for funding. The concerns are as follows:

1. Whether the proposed force main will induce abnormal growth along the proposed route;
2. Whether there would be an undesirable impact upon the the flood plain, prime agricultural land or agricultural operations; and
3. Whether existing development along the "pump-over" route should be allowed to connect.

Mr. King noted that Items 1 and 2 have been dealt with in that the area is zoned R-1 and the project would not induce abnormal growth and secondly, the county Zoning Ordinance contains restrictions for flood plain development. Further the area does not contain prime agricultural lands.

Mr. Petty stated that regarding the third issue, a compromise has been reached with the State at a recent meeting as follows:

1. That they would grandfather in those projects which were already in the planning stage to allow them to connect to the sewer line and exclude those projects that are not now proposed.
2. That those existing areas have failing systems or potential failing systems be allowed to connect;
3. That the area of the pipe line be rezoned from R-1 to Agricultural.
4. That the County enter into a legal agreement with the State binding the County to the above.

Mr. Petty stated that the only condition that may be difficult to meet would be Item No. 3.

During discussion Commissioner Sayre referred to concerns expressed to him by residents of Piney Point regarding new developments connecting to the system.

It was agreed that the Board would defer a decision on the question of approving the proposed "pump-over" system to the Pine Hill Run Treatment Plant for the Piney Point area.

WOODEN AND BENSON
1984 AUDIT REPORT

Present: Ron Fudge, Wooden & Benson (CPA)
Joseph P. O'Dell, Director, Budget & Data Services
B. Harris Sterling, Director of Finance

Mr. Fudge appeared before the Board to present the St. Mary's County Accounts' Report/Financial Statements and Supplemental Information for 1984, which had been prepared by the auditing firm of Wooden & Benson. Mr. Fudge highlighted the report and pointed out that the county is in good financial condition and that the assets and liabilities are basically similar to last year with a major change being an increase in the undesignated fund balance in the amount of over \$400,000. (The amount of the Undesignated Fund Balance for the year ending June 30, 1984 is \$1,519,032.)

The Commissioners expressed their appreciation to Mr. Fudge for

PROCLAMATION NO. 84-70
DISPLACED HOMEMAKERS' WEEK

Present: Carmen Johnson

The Commissioners presented the referenced proclamation designating the week of November 11-17, 1984 as Displaced Homemakers' Week in St. Mary's County.

PROCLAMATION NO. 84-69
ADOPTION WEEK IN ST. MARY'S COUNTY

The Commissioners presented the referenced proclamation designating the week of November 19, 1984 as Adoption Week in St. Mary's County.

PROCLAMATION NO. 84-66
YOUTH APPRECIATION WEEK

Present: Representatives of Optimist Clubs in the County

The Commissioners presented the referenced proclamation designating the week of November 11-17, 1984 as Youth Appreciation Week in St. Mary's County.

PROCLAMATION NO. 84-68
CHAMBER OF COMMERCE WEEK

Present: George Havens, Director, Chamber of Commerce
Carl Loffler
Ann Marum
Dr. Larry Lorton
Mary Lynn Runco

The Commissioners presented the referenced proclamation designating the week of November 11-17, 1984 as Chamber of Commerce Week in St. Mary's County.

PRESENTATION OF CHECK
CHAMBER OF COMMERCE

Representatives of the Chamber of Commerce appeared before the Commissioners to present a check in the amount of \$4600 representing the second installment payment of the loan from the County for the Trade Fair.

OFFICE OF PLANNING & ZONING

PUBLIC HEARINGS

1:00 P.M.

Commissioners present: George Aud, Ford Dean, David Sayre, and Richard Arnold. Commissioner member Larry Millison was absent. Staff present included: Frank J. Gerred, Director, Robin Guyther, Planner, and Anita M. Meridith, Recording Secretary.

Members of the audience included: Ken Lamb, Linda Lamb, Michael Harris, Esq., Bob VanDop, Herb Redmond, Gary Lockhart, Karen Abrams, Joe Densford, Vicky Volk, Howard Latab, J. Marum, Anne Marum, Leone Pudusee, Stephen L. Miller, Oliver R. Guyther, Esq., William C. Bean, Grace E. Bean, Marilyn Young, Ronald R. Payne, Mary Hayden, Virginia Payne, Mathew E. Kaye.

Mr. Guyther read the Notice of Public Hearing aloud, as advertised in "The Enterprise" Newspaper, a publication of county-wide circulation, on October 24, 1984, providing legal notice for the following public hearing(s): ZONE # 84-0730: LAURA KANE and ALPD # 84-1490: DONALD P. MAGNANI.

ZONE # 84-0730: LAURA KANE PROPERTY

Requesting rezoning of 17.2 acres from R-1, Rural-Residential, to R-4, Medium Density Urban Residential. The property is located on the north side of Maryland Route 235, shown on Tax Map 43, Block 2, Parcel 212, in the Eighth Election District.

The Planning Commission record was formally entered into the record at this point.

Submitted into evidence by Mr. Michael Harris, Esq., representing counsel, marked Applicant's No. 1, find postal receipts from the certified letters of notification sent to all contiguous property owners, providing legal advisement of this public hearing. Mr. Harris affirmed that the property had been legally posted by himself on October 30, 1984.

Mr. Guyther pointed out that the applicant had originally applied for R-4 zoning, however, during the process, it had been ascertained that an R-2 zoning classification would allow for the type of development which is proposed. For that reason, the applicant has amended his application and is now seeking an R-2 zoning. Mr. Guyther advised that the Planning Commission and staff report both supported the R-2 zoning request.

Mr. Harris came forward and introduced the applicant/contract purchaser, Mr. Harry Miller. Counsel apprised the Commissioners of the location of this property (parcel located approximately 400 ft. in towards the river, on Rue Purchase Road) and affirmed that the applicant's proposed development could be achieved through the R-2 amended request. Additionally, counsel stressed that the downgraded rezoning request was viewed as a more compatible zoning with the existing neighborhood.

Mr. Harris advised that the rezoning request was based on the contention of change in the character of this neighborhood and he noted that he would call on Mr. Herbert N. Redmond, Jr., Vice-President and Manager of the Lexington Park branch office of the D. H. Stephens Engineering Company, 4 Willows Circle, Lexington Park, Maryland 20653, Telephone No. 862-2226, who would offer testimony to support this premise.

Mr. Redmond, a registered surveyor and engineer with the State of Maryland for the past fifteen years, came forward and offered his land planning and educational credentials. It was noted that Mr. Redmond had testified before the Commissioners on previous occasion, having been formerly accepted as an expert witness in the field of survey and land planning.

Mr. Redmond offered a visual description of the property, noting its location, acreage and natural features, aided by a large aerial map which was posted for review. A second map was posted with Mr. Redmond noting that the area of the "defined neighborhood" was outlined in pink. The areas marked with red arrows were described as those properties which had recently undergone development changes (Patuxent Inn Restaurant, Dynamac, National Mobile Homes, Lanham properties, etc.).

The physical characteristics of the property were given as fairly flat, gently rolling towards the back. Some area in the front has been cleared with the back remaining wooded. Mr. Redmond offered that the land was very suitable for this type of low density development.

Entered into evidence, marked Applicant's Exhibit No. 2 was a map/collage of the area coupled with enlarged photographs of those formerly referenced alleged property changes in the neighborhood. Mr. Redmond addressed other areas of concern with respect to population change - 600 people or 3.7% increase per year; impact upon Rue Purchase Road - Mr. Redmond stated that in his professional opinion there would be no traffic

impact (the plan provides two separate entrances, spaced approximately 500 ft. apart) as the traffic generated by this development would be routed "right off of Rte. 235;" Public utilities - water lines are presently located in the area of the Catholic Church and are proposed to be extended to the National Mobile Home and consequently will serve this property; sewer is available from the railroad track and will require the installation of an additional pumping station. Mr. Redmond referenced the fact that there was a proposal pending to reallign Hewitt Road. Mr. Redmond noted that the matters of fire and rescue and impact fees were previously addressed at the Planning Commission level, therefore, in an attempt to avoid repetition, he would defer address of those topics. School capacity was felt to be acceptable and recreation facilities were noted to be "in place or new parks are to be proposed to be built."

Counsel's second witness was introduced as Mr. Robert Van Dop, Project Designer and Supervisor. Mr. Van Dop offered for the record that he was a registered landscape architect employed by the D. H. Stephens Engineering Company. Mr. Van Dop addressed the concept and explained the circulation and interior road design and the lay out of the lots. He noted that the concept included forty-five (45), 8,000 sq. ft. minimum sized lots, with an average lot size of 10,000 sq. ft. (with public water and sewer a minimum lot size of 6,500 is permissible). The plan indicated three cul-de-sacs from the public right-of-way. All units/lots will have frontage on a public street. The commercial areas will be screened (noted visually on the plan) and all existing vegetation will be retained. Storm water management will be provided in the northern area of the property.

Mr. Redmond gave a visual presentation, aided by a large tax map which was posted, of the area/boundaries defined by the Planning Commission as their concept/determination of the neighborhood (included in Commissioner's packages prepared by the planning staff). Mr. Harris asked Mr. Redmond, based on his knowledge of the area and his experience as a land planner, whether he felt that there had been any changes within that area defined as the neighborhood by the Planning Commission. Mr. Redmond responded affirmatively and pointed out that the Planning Commission also supported the change premise, and outlined those specific properties viewed as changes having occurred within the neighborhood, as contained within their minutes of September 24, 1984. In summation, Mr. Redmond contended that the amended zoning request to R-2 was compatible with the St. Mary's County Zoning Ordinance and land planning and was a good transitional change and sought the Commissioners favorable findings with respect to this application.

Counsel referenced the previously submitted minutes and records of the Planning Commission which he advised contained the details of his presentation regarding the Zoning Ordinance requirements with respect to population changes, adequacy of public facilities, present and future transportation patterns, compatibility with existing and proposed development, relation to the Comprehensive Plan, fiscal impact on County government and suitability of property to uses permitted with the existing and proposed zoning change. Having previously addressed those issues in detail, and so as not to be repetitious, counsel asked that the Commissioners review those comments/data and waived further presentation. In conclusion, Mr. Harris argued that this was a transitional area, that the request was supported by the evidence of record and he asked for the Commissioners favorable consideration with respect to this proposal.

The Chair asked whether anyone wished to speak in favor of the proposal. Hearing no response, he asked whether anyone wished to speak in opposition.

Ms. Karen Abrams, attorney-at-law, advised that she represented the Green Holly Pond Association, a group of residents who were opposed to this application. She noted that this group had recently appeared before the Commissioners in opposition to a former rezoning application for neighboring property owned by Orie P. Beasley. Ms. Abrams offered the

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particulars of that latter case and stated, "I anticipate what we're going to hear is that this is a different property and a different story, but I would submit that it really isn't a totally different story." Ms. Abrams addressed the change issue and noted that the foundation for finding change in the character of a neighborhood, was the defining of a neighborhood, and this was the major point of contention in this instance. She stated that in the former Beasley consideration, staff defined the neighborhood as coming off of Rue Purchase Road, off of Rte. 235 and including properties along this rural winding road to the point of the Green Holly Pond. She stressed that this area was inclusive of large homes on large heavily wooded acreages. Ms. Abrams referenced documentation she previously submitted to the Planning Commission which she asked the Commissioners to review. She advised that the Court had overturned the Board's decision on the Beasley rezoning, based on the lack of evidence presented to support the fact that there had been a change in the neighborhood, based on the staff's definition of the neighborhood. Ms. Abrams quoted testimony of Mr. Frank Gerred, Director of the Office of Planning and Zoning, given to the Board of County Commissioners during the Beasley public hearing, which offered his response as to the manner in which a neighborhood was defined. Counsel referenced specific Court cases which addressed highways and rivers as being natural boundaries used in conjunction with defining a neighborhood. Ms. Abrams referenced other Court cases/opinions which determined that additional commercial classifications at intersections did not show a change in an interlying neighborhood, but rather an intent not to intrude into that particular area. Ms. Abrams stressed that the applicant's submission had been that one could not compare this subject application to the Beasley case, however, she differed noting, "...but I think we have to because it's the same group of people that turn off of 235 and head down this narrow, twenty foot windy road, into the woods and into the driveways that go off into their homes. The same people that lived around the Beasley property are the same people that live around this property." Ms. Abrams urged, "I would submit that you can not move the neighborhood back up to include the highway once it's been established as this particular rural neighborhood, that factor doesn't change, that natural boundary doesn't change."

Other residents of this area addressed the Board and offered their opposing views, based on the following:

Mr. John Marum posed several questions which he felt were pertinent to this proposal, i.e. was the existing Comprehensive Plan in need of revision; consideration of an alternate proposal for development of seventeen homes on this seventeen acre parcel; the fact that there was an abundance of existing R-2 zoned property throughout the County; question of whether a buffer zone was needed; problems surrounding provision of sewer service to this parcel; consideration of the rights of the residents in the existing neighborhood; impact upon the road. In conclusion, Mr. Marum stated, "I feel that this is running a little bit rough-shod over the people who live there and have an investment in the neighborhood that already exists."

Mr. Kenneth Lamb provided several charts which he had prepared in conjunction with the existing traffic patterns and problems concerning the hazardous intersection at Rte. 235 and Rue Purchase Road (later entered as Opponent's Exhibit No. 1). Following a long dissertation on the various traffic patterns/exercises presently occurring, Mr. Lamb urged that the Commissioners consider the fact that the traffic that would be generated by this proposed development would pose additional problems in terms of safety and costs burdened the County and taxpayers resulting from the inevitable necessity of having to upgrade this road. Mr. Lamb also pointed out that the areas on the plan designated for the two entrances to this property were situated on a curvature in the road, and did not provide adequate site distance.

Mr. Howard Lamb urged the Commissioners to given serious consideration to their determination of the neighborhood and asked that each Commissioner personally come down to this site and inspect the property for themselves. He emphasized that this was a narrow, winding road and should this project be approved, the road would eventually require upgrading. Mr. Howard Lamb disagreed with the staff's definition of the neighborhood in this case, and questioned how the boundaries of the neighborhood could differ in this case, as compared to the former Beasley consideration.

Mr. Gary Lockhart commented that he had moved to this area of the County because of its appealing rural character. Mr. Lockhart stated, "I really haven't seen any change in that area there, even though you're going up and down Rte. 235 where hotels or motels and contractor buildings are sprouting up." Mr. Lockhart stressed that those changes occurring along the highway had direct access to Rte 235, where this proposal did not.

Commissioner Dean asked what was the maximum number of units allowed under an R-1 zoning classification coupled with the fact that said property was serviced by public water and sewer. Mr. Gerred advised that the maximum number could be achieved through a cluster design which would be 120% of a normal subdivision design. Mr. Guyther added that in this instance, the density would be one acre for one house (while no bonuses were allowed because the property will be served by public water and sewer, there may be the possibility of an extra 20% under the cluster provision, for a total of 20 possible houses).

Commissioner Arnold asked whether staff had made a determination as to whether there would be any impact on the road with respect to site distance and the number of projected vehicle trips. Mr. Guyther responded that approximately 450 vehicle trips had been projected. This number was derived using the standard formula that a single family detached home generated about nine (9) trips per day. A rural road such as this, has been determined to adequately provide for 3,000 vehicle trips per day. Commissioner Arnold asked whether there would be an impact on the intersection. Mr. Guyther felt that there would be an impact, however, he could not say whether it would be substantial. Mr. Guyther added that taking into consideration the proposal for the realignment of Hewitt Road, the Commissioners may be faced with the question of whether a traffic control device should be installed.

Mr. Guyther stated that while three separate definitions had been derived for the neighborhood (one by the applicant, one by the opposition and one by Planning Commission), the staff had agreed with the applicant's definition. He advised that as previously noted, the Planning Commission had arrived at their definition, extracting some of the area from the applicant's basic definition for the neighborhood. Staff advised that the reason that the Planning Commission was within their rights to do this was due to the law which provided that a neighborhood was determined, based on a specific piece of property. Therefore, each individual case must establish a neighborhood for that particular piece of property. In this instance, the Planning Commission felt that the neighborhood established for the Beasley case, was inappropriate for this parcel and warranted it's own defined neighborhood. Mr. Guyther reflected that the Planning Commission had gone through a long arduous process in defining the neighborhood. Mr. Guyther felt that the key in this instance, was the Court's decision that a neighborhood or issues such as this, must be fairly debatable, meaning that there must be reasonable evidence to conclude that one or the other, or both of them were right. In the Beasley case, the Court ruled that the neighborhood was not necessarily wrong, but that there wasn't enough evidence presented to establish this one mile neighborhood. In this case, the Planning Commission accepted three individuals evidence and had a debatable issue, and derived through their procedures, a determination and established what they felt constituted the neighborhood. While this definition was somewhat smaller than the applicant's theory, the area still did not include the end of Rue Purchase Road, as they felt that

this area was just "too far away and that this property, people wouldn't be necessarily driving past this property down at the end of Rue Purchase Road, they would just drive in and turn off. That's why they were excluded from this definition of the neighborhood."

Commissioner Aud commented that in the near future, the area serviced by public water and sewer in the Great Mills vicinity would become the major hub of the County and was the area where most major development would occur. Mr. Aud commented that while this had no relevance to this particular case, he urged the members of the audience to acquaint themselves with the existing planning trends in the County by attending the Planning Commission meetings. He commented that no matter what property was proposed for rezoning, there would always be an objection from someone.

Hearing no further testimony, the public hearing was closed.

NOTE: MR. ROBIN GUYTHER, PLANNER, OPZ, DID NOT PARTICIPATE
IN THE FOLLOWING CASE.

ZPUD # 84-1167: HARKINS ASSOCIATES, INC.

Requesting rezoning of 53 acres from R-2, Low Density Urban Residential, to PDR 5.74, Planned Development Residential and PD-SC, Planned Development Neighborhood Shopping Center. The site is the William Calvert Bean property located on the west side of Maryland Rte. 246, Great Mills Road, Eighth Election District, shown on Tax Map 51, Block 2, as Parcels 2 and 160.

Mr. Gerred recalled that the County Commissioners had held a joint public hearing with the Planning Commission on this request on September 10, 1984. The Planning Commission subsequently issued a positive recommendation with some alteration of the commercial area. Mr. Gerred explained that in reviewing the proposal, staff had discovered a section in the Zoning Ordinance which would not allow the commercial portion of this development to be approved, as submitted. The Ordinance now provides that in a planned development if existing commercial facilities are within "walking distance" then those types of facilities should not be approved in the planned development.

Additionally, Mr. Gerred explained that the Bay District Fire Department requested the location of a station site within the planned development. The developer has responded to that request and has agreed to donate property for that purpose (an amended development has been submitted and now meets the requirements of the Ordinance).

Mr. Oliver Guyther, Counsel and Agent for the Contract Purchaser, Harkins Associates, Inc. and TM Associates, was recognized by the Chair. Mr. Oliver Guyther noted that he would submit on the record and had nothing further to add. He did request that the Board of Commissioners approve the development plan, as amended and attested by Mr. Frank Gerred.

The Chair asked whether anyone present wished to speak either in favor or opposed. There was no response.

Commissioner Arnold questioned whether the donation of a parcel of land by the developer to the Bay District Fire Department for construction of a substation had been a voluntary action. Mr. Gerred advised that under this type of development, there was the flexibility to change the plan somewhat and therefore it was not an encumbrance upon the developer to set aside a small piece of the property for that specific purpose. Mr. Gerred added that while he could not speak for the developer, at no time did he hear any objection from the developer regarding this requested donation.

Commissioner Sayre asked whether there was any proposal with respect to the widening of the road. Mr. Gerred responded that the Planning Commission had recommended that the Commissioners reserve the widening area necessary for both Chancellors Run Road and Great Mills Road. Commissioner Sayre emphasized that while this proposal did not include any property at the intersection, he felt that the Commissioners should keep the plight of this intersection in mind.

Commissioner Dean remarked that he felt that the proposed development was consistent with the development patterns in the area and since this was a PUD, the Board did not have to find change or mistake. Commissioner Dean subsequently moved, seconded by Commissioner Arnold and unanimously passed, to instruct the County Attorney to prepare the appropriate approving resolution, per the amended site plan, said resolution to encompass the recommendations of the staff and the Planning Commission.

Commissioner Aud advised that the developer was under a time constraint with respect to financing for this project, and as such he asked the Commissioners whether they would be prepared to sign the adopting resolution today. The member concurred.

ALPD # 84-1490: DONALD P. MAGNANI

Requesting to establish an agricultural land preservation district off Willows Road in Lexington Park. The property contains 123 acres and is in the Eighth Election District, shown on Tax Map 51, Block as Parcel 41, zoned R-2, Low Density Urban Residential.

Mr. Gerred advised that this applicant was seeking a recommendation from the Board of County Commissioners to establish an agricultural land preservation district on his farm off Willows Road. The St. Mary's County Agricultural Preservation Committee had issued a positive recommendation for an approval, as well as the Planning Commission and staff.

Commissioner Arnold moved, seconded by Commissioner Sayre, and unanimously passed, to forward a recommendation to the State Agricultural Land Preservation Committee to approve this application.

ADOPTION OF RESOLUTION NO. 84-03

Mr. Gerred advised that Resolution 84-03, adopting the 1982 Comprehensive Water and Sewerage Plan for St. Mary's County, Maryland was discovered to have contained an editing error, wherein certain language had inadvertently been deleted. Commissioner Dean moved, seconded by Commissioner Sayre and unanimously passed, to add the deleted phrase to Resolution 84-03, as provided by staff. The County Attorney subsequently advised that the text "and pursuant to Article 66B of the Annotated Code of Maryland" could be incorporated and the Resolution refiled.

PENDING ITEMS

The Commissioners concurred to schedule the following pending text change proposals to their agenda for November 20, 1984: ZONE # 84-1312 (Day Care/Child Care) and ZONE # 84-0998: A Proposal to reduce the minimum lot size in the AR, Agricultural-Residential District from 1.5 acres to 1.0 acre by rezoning all agricultural land to R-1, Rural-Residential.

OFFICE OF COUNTY ENGINEER ITEMS

Present: John Norris, County Engineer

1) PUBLIC HEARING
SPECIAL TAXING DISTRICT
CATHY CIRCLE

The Board of County Commissioners conducted a public hearing on the establishment of a Special Taxing District No. 3 for the reconstruction of Cathy Circle in the Golden Beach Subdivision.

Discussion ensued regarding the annual fee and the cost to the individual owners of lots in the taxing district and that the County's participation would be the upgrading the surface of the road from surface treatment to asphalt.

Hearing no comments either for or against, the public hearing was closed. The County Engineer will present the adopting Resolution for the Board's consideration at a later date.

2) ST. MARY'S COUNTY AIRPORT

a) Maryland Department of Transportation
Grant Agreement

Mr. Norris presented a proposed Grant Agreement by and between St. Mary's County Commissioners and Maryland Department of Transportation in the amount of \$13,732 for the state's share of the St. Mary's County Airport project--land acquisition easements, obstruction removal and widening and extending runway area.

Commissioner Dean moved, seconded by Commissioner Sayre, to approve and authorize Commissioner President Aud to sign said Grant Agreement.

b) Federal Aviation Administration

Mr. Norris advised that a Notice of Preapplication has been received from Federal Aviation Administration stating that St. Mary's County is eligible for funding in the amount of \$343,260 for obstruction removal and apron expansion at the airport for FY '85.

3) AMENDMENT TO ROAD ORDINANCE
CIVIL PENALTIES
SCHEDULE OF FEES

Having conducted public hearings on November 29, 1983 and October 23, 1984 on the Amendment to the St. Mary's County Road Ordinance related to civil penalties, the Commissioners reviewed the draft proposed Resolutions adopting the Amendments and the Schedule of Fees as presented by the County Engineer. The Commissioners agreed to take action at next week's meeting.

4) APPLICATION FOR ELECTRICAL SERVICE
VEHICLE MAINTENANCE FACILITY

Mr. Norris presented the referenced Application for electrical service to the County Engineer's Vehicle Maintenance Facility on St. Andrews Church Road and requested authorization for Commissioner President Aud to sign same.

Commissioner Dean moved, seconded by Commissioner Arnold, to authorize Commissioner President Aud to sign same.

5) SNOW AND ICE CONTROL OPERATIONAL PLAN

As a follow up to the presentation on October 29, 1984 relative to the Snow and Ice Control Operational Plan for St. Mary's County, Commissioner Arnold moved, seconded by Commissioner Dean, to approve the Plan as presented by the County Engineer. Motion carried.

6) ACQUISITION OF SWENSON PLOWS

Mr. Norris presented a Requisition for the acquisition of two Swenson Plows from the Fallsway Spring and Equipment Company through the County's Lease/Purchase Agreement in the amount of \$1550 each. The equipment will be used by the Department of Recreation and Parks.

Commissioner Aud moved, seconded by Commissioner Arnold, to approve acquiring said equipment. Motion carried.

7) SNOW REMOVAL AGREEMENTS

The County Engineer requested authorization by the Board for Commissioner President Aud to sign all Snow Removal Agreements for the provision of personnel and equipment for emergency operations on County highways for certain designated routes. Mr. Norris presented two Agreements and advised that others will be submitted at a later date.

Commissioner Arnold moved, seconded by Commissioner Dean, to authorize Commissioner President Aud to sign the two agreements as presented as well as all futures snow removal agreements recommended for approval by the County Engineer. Motion carried.

8) COUNTY-OWNED BORROW PITS

The County Engineer stated that the Department of Natural Resources has advised that it is their intention not to pursue their proposal to end the exemption from the surface mining permit requirement.

9) SECURITY FENCING
VEHICLE MAINTENANCE FACILITY
PROJECT NO. SM 85-4-7

The County Engineer presented the bid tally sheet for the referenced project and recommended awarding the bid to Thomas Fence Company in the amount of \$3,870.00. Commissioner Aud moved, seconded by Commissioner Arnold, to accept this recommendation. Motion carried.

10) BIDS FOR CARPETING
GOVERNMENTAL CENTER - SECOND FLOOR

The County Engineer requested formal approval of action taken by the majority of the Board last week on the acceptance of the lowest bidder for the purchase and installation of carpeting for the second floor of the Governmental Center. The lowest bidder was Griffin Carpeting in the amount of \$6,740.

Commissioner Aud moved, seconded by Commissioner Arnold, to formally accept the lowest bidder as recommended by the County Engineer. Motion carried.

11) ROLFE ROAD

Mr. Norris advised the Board that residents of the referenced road have requested that it be improved. One of the property owners along the road, Mr. Brook T. Brian, has indicated his willingness to give land for this purpose subject to certain things being accomplished: (a) a metes and bounds description of the property; (b) changing name of road to South River Road; (c) topographical errors on deed corrected; and (d) changing of location of southern boundary.

Mr. Norris indicated that the likelihood is small that the road will be improved in the near future; however, he recommended that the Commissioners concur with Mr. Brian's offer in accepting the property and meeting the conditions for the time if and when the road is reconstructed. The Board gave their concurrence.

12) ACCEPTANCE OF DEEDS

The County Engineer presented the following Deeds for the Commissioners' review and approval:

Wildewood Subdivision
Wildewood Parkway

Deed dated November 13, 1984 by and between Paragon Builders, Inc. and St. Mary's County Commissioners for the acceptance of Wildewood parkway Extension, Neighborhood Three, Cluster Two.

Wildewood Subdivision
Holly Hill Lane

Deed dated November 13, 1984 by and between Paragon Builders, Inc. and St. Mary's County Commissioners for the acceptance of Holly Hill Lane, Wildewood Neighborhood, Cluster Two.

Wildewood Subdivision
Cedar Court

Deed dated November 13, 1984 by and between Paragon Builders, Inc. and St. Mary's County Commissioners for the acceptance of Cedar Court, Wildewood Subdivision.

Wildewood Development Corporation
Cottonwood Parkway

Deed dated December 12, 1984 by and between Wildewood Development Corporation and St. Mary's County Commissioners for the acceptance of Cottonwood Parkway.

North Indian Creek
Potomac Way

Deed dated August 14, 1984 by and between Oliver Guyther and the Board of County Commissioners of St. Mary's County for the acceptance of Potomac Way.

Greenview Knolls
Military Lane and Church Drive

Deed dated September 29, 1983 by and between James Dobry and Dobry Construction Company and the County Commissioners of St. Mary's County for the acceptance of Military Lane and Church Drive in Greenview Knolls.

Commissioner Sayre moved, seconded by Commissioner Arnold, to approve and authorize Commissioner President Aud to sign the above Deeds as presented by the County Engineer. Commissioner Dean abstained. Motion carried.

13) PUBLIC WORKS AGREEMENTS
PARAGON BUILDERS, INC.

The County Engineer presented the following Public Works Agreements for the Commissioners' review and approval:

a) Dated October 30, 1984 by and between Paragon Builders, Inc. and St. Mary's County, Maryland, for White Oak Condo of Wildewood, Neighborhood Two, Cluster Three, Plat Two, Eighth Election District for White Oak Parkway in the amount of \$25,500.

b) Dated October 30, 1984 by and between Paragon Builders, Inc. and St. Mary's County, Maryland, for White Oak Condo of Wildewood, Neighborhood Two, Cluster Three, Plat Two for Wildewood Boulevard in the amount of \$23,400.

Commissioner Sayre moved, seconded by Commissioner Arnold to approve and authorize Commissioner President Aud to sign said Public Works Agreements. Commissioner Dean abstained. Motion carried.

14) ADDENDUM TO PUBLIC WORKS AGREEMENT
FOREST RUN SUBDIVISION

The County Engineer presented an Addendum to a Public Works Agreement entered into by and between Edward Cood and Maxine W. Cook and the Board of St. Mary's County Commissioners extending the deadline for the completion of roads in Forest Run Subdivision, Section I, Eighth Election District to July 1, 1985.

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

15) ROAD RESOLUTIONS

The County Engineer presented the following Road Resolutions for the Commissioners' review and approval:

No. R-84-14
North Indian Creek Subdivision

Designating the following streets as Stop Streets:

Potomac Way as it intersects with Mohawk Drive.

No. R-84-17
Wildewood Subdivision

Designating the following streets in Wildewood Subdivision as Stop Streets:

Holly Hill Lane as it intersects with Wildewood Parkway
Cedar Court as it intersects with Piney Wood Circle
Cottonwood Parkway as it intersects with Airport Road.

No. R-84-18
Esperanza Farms Subdivision

Designating the following streets in Esperanza Subdivision as Stop Streets:

Esperanza Terrace as it intersects with Esperanza Drive.
West Bayview Terrace as it intersects with Esperanza Drive.

No. R-84-19
Greenview Knolls Subdivision

Designating the following streets in Greenview Knolls Subdivision as Stop Streets:

Military Lane as it intersects with Chancellors Run Road.
Church Drive as it intersects with Chancellors Run Road.
Green Holly Road as it intersects with Millstone Landing Rd.

No. R84-21
North Indian Creek Subdivision

Posting Potomac Way located in North Indian Creek Subdivision at 25 miles per hour.

No. R84-22
Wildewood Subdivision

Posting Holly Hill Lane, Cedar Court and Cottonwood Parkway at 25 miles per hour.

Commissioner Sayre moved, seconded by Commissioner Arnold, to approve and authorize Commissioner President Aud to sign said Road Resolutions. Commissioner Dean abstained. Motion carried.

PURCHASE OF ANIMAL WARDEN VEHICLE

Commisioner Dean moved, seconded by Commissioner Aud, to confirm prior approval by a majority of the Board of the awarding of the bid for the purchase of the Animal Warden Vehicle to Bell Motor Company in the amount of \$8,941. Motion carried.

CLASSIFICATION AND PAY STUDY PROPOSAL

Present: Gerda Manson, Personnel Officer

Mrs. Manson advised the Commissioners that the County solicited for Requests for Proposals for the Classification and Pay Study of St. Mary's County Government and three proposals have been received. She stated that it is the staff's recommendation to award the bid to Yarger and Associates, Inc. at a cost of \$12,940.

After discussion, Commissioner Dean moved, seconded by Commissioner Arnold, to accept this recommendation. Motion carried.

CUSTODIAL POSITION
OFFICE OF PURCHASING AND LOGISTIC SERVICES

The Commissioners discussed the need for an additional custodian for county government buildings and agreed that a custodial position be established in the Office of Purchasing and Logistics to take care of the Governmental Center and Garvey Center. Specific details as to grade and advertising will be submitted at a later date.

EXECUTIVE SESSION

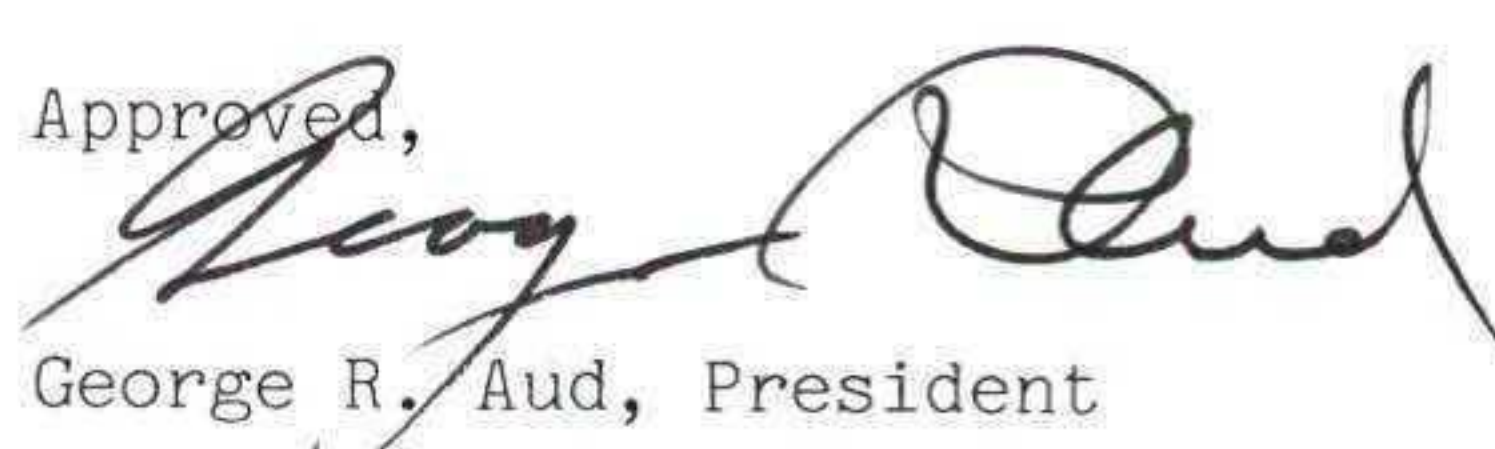
Present: Edward V. Cox, County Administrator

The Commissioners agreed to meet in Executive Session in order to discuss matters of Personnel. The Session was held from 3:10-4:00 p.m.

ADJOURNMENT

The meeting adjourned at 4:15 p.m.

Approved,


George R. Aud, President