

BOARD OF COUNTY COMMISSIONERSTuesday, March 24, 1987

Present: Commissioner Joseph P. O'Dell, President
 Commissioner W. Edward Bailey
 Commissioner Robert Jarboe
 Commissioner John G. Lancaster
 Commissioner Rodney Thompson
 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 Bailey moved, seconded by Commissioner Thompson, to approve the minutes of the Commissioners' meeting of March 17, 1987. Motion carried.

APPROVAL OF BILLS

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve payment of the bills as submitted. Commissioners O'Dell and Thompson abstained in that they were opposed to paying Atlantic Airways for ticket subsidy. Motion carried with a vote of three-to-two.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) APPOINTMENTSSt. Mary's Council on Children and Youth

Commissioner Thompson moved, seconded by Commissioner Bailey, to appoint the following individuals to the St. Mary's Council on Children and Youth: Eddie Keller, Kevin Williams, and Jennifer Carroll for terms to expire June 30, 1987. Motion carried.

Comprehensive Plan Advisory Committee

Commissioner Thompson moved, seconded by Commissioner Lancaster, to appoint John C. Houser to the Comprehensive Plan Advisory Committee. Motion carried.

Procurement Manual Review Committee

Commissioner Lancaster moved, seconded by Commissioner Thompson, and motion carried, to appoint the following individuals to the Procurement Manual Review Committee:

Carl M. Loffler, Jr., Loffler Construction Co.
 Wayne Davis, Commercial Contractors
 Shirley Colleary, Colonial Office Supplies
 Charles Palmer, St. Mary's Press
 George Klear, Printing Press
 Jerry Knockleby, Lorenzi, Dodds and Gunnill
 Francis Abell, McCrone, Inc.
 John Griffiths, Griffiths Enterprises
 Robert G. Reed, Onsite Computer Services
 Elmer Brown, Minority Alliance

2) TALL TIMBERS SHORE EROSION PROJECT

The County Administrator advised that the contractor is on the site to do the corrective work at the Tall Timbers Shore Erosion Project as had been requested by the Commissioners.

3) ROAD RESOLUTION NO. R87-15
RENAMING LANGLEY ROAD TO GODDARD ROAD

On behalf of the Director of the Department of Public Works, the County Administrator presented the referenced Road Resolution renaming Langley Road (Eighth Election District) to Goddard Road. The public hearing was held February 10, 1987 on the request for the name change.

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to authorize Commissioner President O'Dell to sign the Road Resolution as presented. Motion carried.

4) ST. MARY'S COUNTY AIRPORT
FEASIBILITY STUDY

The County Administrator presented correspondence addressed to the Director of the Department of Economic and Community Development requesting that he do an economic feasibility study of the County Airport. The Commissioners agreed to sign and forward the letter.

5) HOLLYWOOD OPTIMISTS
FIRE PREVENTION GRANT

As directed at last week's meeting, the County Administrator presented correspondence for the Commissioners' signatures endorsing Hollywood Optimists' application for a grant in the amount of \$18,750 for fire prevention program. The Commissioners agreed to sign the letter as presented.

6) PROPERTY TAX ASSESSMENT APPEAL BOARD

Commissioner Jarboe moved, seconded by Commissioner Lancaster to authorize Commissioner President O'Dell to sign the letter to Governor Schaefer submitting the following three nominations to fill the vacancy created by the resignation of William E. Bailey on the Property Tax Assessment Appeal Board: R. Johns Dixon, Daniel Raley, and James A. Forrest. Motion carried.

7) MARYLAND FIRE SERVICE PERSONNEL QUALIFICATION BOARD

Commissioner Bailey moved, seconded by Commissioner Thompson, to appoint Gregory Adams as St. Mary's County's representative on the referenced Board and Richard S. Combs as alternate. Motion carried.

8) REQUEST FOR USE OF SHERIFF'S DEPARTMENT DISPOSED VEHICLE

The County Administrator presented a request by the Director of Department of Economic & Community Development for permission to return the 1974 van assign to the Housing Authority for use at Tubmann Douglas and exchange it for one of the Sheriff's Department vehicles scheduled for disposition.

Commissioner Bailey moved, seconded by Commissioner Thompson, to grant the request as set forth above. Motion carried.

9) REGIONAL TRANSPORTATION PLAN

The County Administrator presented correspondence dated March 9, 1987 from the Tri-County Council requesting the County to designate appropriate county staff to serve as a member and alternate on the steering committee in the development of a service plan for a commuter bus service.

Commissioner Thompson moved, seconded by Commissioner Bailey to appoint Billye McGaharn as the member and Ferrar Lucas as alternate. Motion carried.

10) HEALTH INSURANCE POLICY AMENDMENT

The County Administrator presented an amendment to the Agreement with Blue Cross/Blue Shield of Maryland, Inc. to allow BC/BS to look into any charge over \$5,000 and audit that charge. There will be no cost to the County. All audit fees will be subtracted from any resulted savings.

Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve and authorize President O'Dell to sign the amendment. Motion carried.

11) CIVIL DEFENSE RESCUE VEHICLE

The County Administrator advised that in 1976 a Civil Defense Rescue vehicle was purchased and placed at Leonardtown Volunteer Fire Department as a central location for use by the other departments. In that vehicle is a variety of rescue equipment. After some time other departments acquired their own rescue equipment and the Civil Defense vehicle became an impractical idea. Therefore, the County Administrator presented correspondence addressed to the President of the Fire Board proposing that the County surrender this vehicle to the Leonardtown Fire Department since it is no longer being used by other departments. Transfer of title to Leonardtown would be with the stipulation that the vehicle be maintained as a county-wide rescue unit by Leonardtown for a period of three years. After that time LVFD would have complete disposition of the vehicle and related equipment.

Commissioner Bailey moved, seconded by Commissioner Lancaster to accept this proposal as presented. Motion carried.

EMERGENCY OPERATIONS CENTER
ANNUAL REPORT

Present: Tom Oliver, Director, EOC

Mr. Oliver presented and reviewed the 1986 Annual Report for the Emergency Operations Center. He stated that it was a record year with 50,217 incidents, a 12.13% over 1985.

After review, the Commissioners thanked Mr. Oliver for the report, a copy of which is on file in the Commissioners' Office.

DEPARTMENT OF PUBLIC WORKS

Present: John Norris, Director

1) PROJECT NO. SM 85-4-10
ADULT DETENTION CENTER CONTRACT DOCUMENTS

Mr. Norris requested authorization for Commissioner President O'Dell to sign the contract documents for the construction of the 72-cell St. Mary's County Adult Detention Center.

Commissioner Lancaster moved, seconded by Commissioner Bailey to authorize Commissioner President O'Dell to sign the documents as requested, pending clarification of legislation pertaining to a state debt in the amount of \$300,000. Motion carried.

2) PUBLIC WORKS AGREEMENT
FLOWER OF THE FOREST SUBDIVISION

Mr. Norris presented a Public Works Agreement dated March 3, 1987 by and between Julius J. Finnacom and John A. Daugherty and St. Mary's County guaranteeing completion by March 3, 1988 of the following roads in Flower of the Forest Subdivision, Section II: Bradley Boulevard, North Stevens Street, South Stevens Street, Laura Court, Marvin Court, Jeannine Court, Ralph Court. The Agreement is backed by a Letter of Credit in the amount of \$386,500 from Maryland Bank and Trust Company.

Commissioner Thompson moved, seconded by Commissioner Bailey, to authorize Commissioner O'Dell to sign the Agreement as presented. Motion carried.

3) DUKEHART'S CREEK
DREDGING PROJECT

Mr. Norris advised that the referenced project will be fully funded by the State and that the Department of Public Works is required to design, survey, inspect, process all contracts and request reimbursements. Therefore, Mr. Norris requested authorization for the President to sign the plans, the wetlands license application, and the Corps of Engineers permit application. He stated that funds are not budgeted and a source would have to be identified. Mr. Norris did state that it may take two to three months for the permit approval process by the State and that it could possibly be covered in next fiscal year's budget.

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to authorize Commissioner President O'Dell to sign the documents as presented. Motion carried.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator
John Norris, Director, DPW
Dan Ichniowski, DPW
Joseph Densford, Asst. County Attorney

Commissioner Bailey moved, seconded by Commissioner Thompson, to meet in Executive Session to discuss a matter of litigation. Motion carried. The Session was held from 10:00 a.m. to 10:20 a.m.

ST. MARY'S COUNTY OFFICE SPACE NEEDS STUDY
F.S.I.

Present: Larry Abell, President, F.S.I.
George Dyson, Project Manager
John Norris, Director, DPW

The referenced representatives of F.S.I. appeared before the Commissioners to present the results of the space needs study for St. Mary's County. Using a slide presentation, Mr. Dyson pointed out the various county facilities, current occupancy, projected personnel needs, alternatives and time schedules. Mr. Abell indicated that this study is the preliminary stage whereby background information has been gathered.

A copy of the study is on file in the Commissioners' Office.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator
John Norris, Director, DPW
Frank Gerred, Director, OPZ
Dan Ichniowski, DPW

Commissioner Jarboe moved, seconded by Commissioner Thompson, to continue the Executive Session on litigation. Motion carried. The Session was held from 11:50 a.m. to 12:30 p.m.

FY '88 BUDGET REVIEW

Present: Edward V. Cox, Budget Panel Member
Charles H. Wade, "
Gerda Manson, "

At this time the Commissioners reviewed the FY '88 capital and operating budgets and discussed various projects to be included or not included and the setting of the tax rate. The panel recommended the following: No new positions; no new equipment; no new programs; no increases for non-government activities; no across-the-board grade level increase for Sheriff; no new programs-Jail; no Reserve; for Board of Education: No supplement; non-teacher 1% to 2.5%; county's share of teacher pay raise 50%.

Each of the Commissioners made the following points:

Commissioner O'Dell:

In favor of health insurance increase;
In favor of setting aside funds for Sheriff's Dept. reclassifications;
In favor of 2.5% cost-of-living increase for County employees;
In favor of acquiring capital equipment through lease purchase;
In favor of giving Board of Education total budget request with the exception of the following: Not to give classified employees 7%, but 2.5%;
In favor of considering the \$400,000 Governor Schaefer proposal as revenue for the Board of Education;
That all Bd/Ed utilities be set at the FY '86 level, and if necessary make adjustments at end of year.
In favor of Sheriff Department patrol (five men and associated equipment);
In favor of employment of Performance Auditor because of long-range cost savings;
Not in favor of any other new positions, but in favor of considering requests during the Recommended-to-Approved Budget process. That county utilities also be set at FY '86 level and that adjustments be made at end of year if necessary. In favor of keeping operating expenses consistent with the current budget year. That there be no other equipment other than what is identified in Lease Purchase.
In favor of \$773,000 capital budget transfer from General Fund.

Commissioner O'Dell indicated that how ever that shapes out the tax rate, he would be willing to live with it.

Commissioner Jarboe advised that he could accept Commissioner O'Dell's proposal pending the resulting tax rate. He pointed out that the fire departments have requested a fire tax and majority have indicated .11¢. Commissioner Jarboe further indicated that there may be a need to reconsider the accommodations tax and the sand and gravel tax. In addition, he stated that he was not in favor of picking up expenditures that the federal or state will no longer fund.

Commissioner Lancaster indicated his support of Commissioner O'Dell's proposals; however, he did state that he would like to keep an open mind regarding the 2.5% for classified employees.

Commissioner Thompson explained that he would not support a tax rate increase; that there is \$5,000,000 projected increase in revenue; and the county should live within its means.

Commissioner Bailey indicated that he would like to see what the tax rate would be in conjunction with what has been recommended. If there is a minimal increase in the rate, he stated that he could possibly support that.

After discussion, it was agreed that the Commissioners would meet on Friday, March 27 to continue discussion of the recommended budget.

GROUNDBREAKING
ADULT DETENTION CENTER

At this time the Commissioners attended the groundbreaking ceremony for the St. Mary's Adult Detention Center to be located on the governmental center property. The groundbreaking was followed by a reception in Room 16 of the Governmental Center.

(The evening session began at 6:00 p.m.)

COMMENDATION

Present: Russell and Mary Frazier

The Commissioners presented a Commendation to Russell and Mary Frazier for outstanding and meritorious services to a fellow citizen in a death threatening situation on March 10, 1987 whereby saving the life of Mr. Thomas Fean.

PROCLAMATION

Present: Steve Davis
Bob Ulibri
Paul Ludwig
Larry Ludwig

The Commissioners presented a Proclamation designating April 1987 as Harmony Month in St. Mary's County.

PERMIT REVIEW PROCESS

Present: Frank Gerred, Director, Office of Planning and Zoning
Steve King, Metropolitan Commission
Tom Russell, Director, Environmental Hygiene

Each of the above individuals reviewed with the Commissioners the process used by their department for obtaining permits. Sample forms were distributed and reviewed. Mr. Gerred pointed that he felt that each office makes a conscientious effort to treat each individual applicant fairly. He invited the Commissioners to select a piece a property and go through the motions of the permit process to subdivide that land.

Discussion ensued concerning computerization communication between the offices and the possibility of streamlining the process (possibly one-stop permit process).

The County Administrator reiterated a previous suggestion that there be a public meeting to demistify the permit process for the general public.

The Commissioners thanked the referenced individuals for their presentations.

COUNTY COMMISSIONER ITEMS

1) Fiscal Procedures - Commissioner O'Dell referred to the memorandum dated July 15 to department heads regarding fiscal procedure changes - FY '87. Reference is made to the submission of change orders to the Budget Director and Commissioner O'Dell requested that the document be changed to read "Director of Finance" in that the Budget Director position has been eliminated.

2) Chancellors Run Road - Commissioner O'Dell stated the the Board has before it the Mayjack rezoning as well as other planning and zoning matters concerning developments on Chancellors Run Road. He stated that the County should not require from anyone land that could be sold at an appraised value. If the County required donation of land, the County is in effect creating additional expense to not only the developer, but he would pass it on to the consumer.

DUKEHARTS CREEK

Present: John Norris, Director, Department of Public Works
Bob Kopel, property owner
Thomas E. Down, "
Harry Nelson, "
David Sayre, watermen
Other interested citizens

Property owners of Dukeharts Creek and other interested citizens appeared before the Commissioners to request action regarding the dredging of the channel in Dukeharts Creek. Silt has filled in a portion of the creek preventing boats from going in and out of the creek into the Potomac, particularly during low tide.

Commissioner O'Dell explained that the Commissioners discussed this matter during this morning's session and gave authorization for the signing of the appropriate permits to begin the work. He indicated to the citizens that it will take approximately 30-60 days to get the job done.

Mr. Downs and Mr. Sayre also discussed the need for dredging of a mouth of the channel to the Potomac River and requested that the State provide a jetty. Commissioner O'Dell indicated that would be a separate project request to the State.

8:00 P.M.

Commissioners present: Joseph P. O'Dell, W. Edward Bailey, Robert Jarboe, John G. Lancaster and Rodney Thompson. Staff present included: Frank J. Gerred, Director, Robin Guyther, Planner, and Betsy Anthony, Recording Secretary, Office of Planning & Zoning.

ZPUD #86-0893: MAYJACK, INC.

Requesting rezoning from R-2, Low Density Urban Residential, to PD-IP, Planned Development Industrial Park and PDR, Planned Development Residential. The property is located off Barefoot Drive (extended), California, Eighth Election District, shown on Tax Map 42, Block 6, as Part of Parcel 51 and Parcels 71, 154, and 165.

Mr. Guyther oriented the members as to the location of the property at the corner of Chancellors Run Road and the railroad right-of-way, behind the Hickory Hills Shopping Center. The site contains approximately 128 acres which is currently zoned R-2. The applicant was asking for a rezoning of 103 acres to PDR-5 which would be 5 units per acre and 25 acres to Planned Development Industrial Park. The PDIP would be divided into two sections with about 7 acres used for offices and warehouses and 13 acres would be used for research and development projects. Mr. Guyther then stated that the project was fairly well designed, but the primary issue that was not settled had to do with the improvement of Chancellors Run Road.

Commissioners Jarboe, Thompson, Bailey, and Lancaster stated that they agreed with the Planning Commission approval and the criteria given.

The Chair then stated that he had a few amendments that he wanted to offer for consideration concerning the recommendation of the Planning and Zoning staff as well as the Commission members which voted unanimously on the three items set forth on page 6 on the Planning Commission Minutes of September 8, 1986. President O'Dell stated that he did agree with item one, requiring that setback lines be added to the plan. He took exception to item two and suggested striking out the limitation of 115 dwelling units before improving the road with additional lanes. President O'Dell said that he would like to see that modified to increase the square footage allowance to the development from the units. He then stated that he is not in favor of requiring a developer to donate land to a project because that would mean taking something of value from the developer. He believed that the Commission should require that the developer set aside the land so that the pronounced state policy on 100 foot right-of-ways for Chancellors Run Road be protected. For this case, President O'Dell felt that it would not be the developer's responsibility to construct a roadway, but it would be the responsibility of the State of Maryland. President O'Dell then said he agreed with the Planning Commission and the Planning and Zoning Office that extension rights-of-ways are to be reserved for donation to the County when required. He urged that the developer should be compensated for the value of the land the County would be receiving.

Mr. Guyther then stated that the applicant had no problem with item three, and Mr. Gerred told the members that the right-of-way was almost complete.

Commissioner Jarboe again expressed his concerns for building an additional roadway for the site. He stated that once the applicant had reached a certain level, he could not go any farther with construction. Commissioner Jarboe stated that he would go along with the commercial zoning to an extent of what the applicant already had approved.

Mr. Guyther then stated that the actual Planning Commission recommendation stated that the applicant could occupy until the road was put in. He said that it sounded like the only change President O'Dell was making was to change the zoning from residential to commercial.

Commissioner Thompson commented that they should encourage the applicant to build commercial instead of residential.

A motion was made by Commissioner Thompson to give the authority to the County Attorney to draft a resolution approving the rezoning requirements. The motion was seconded by Commissioner Lancaster. The Chair then asked for a vote with Commissioners Thompson, Lancaster, and Bailey voting in favor of the rezoning, and Commissioner Jarboe opposed. Motion was passed four to one.

ZONE #85-1597: OLIVER R. GUYTHER

Requesting rezoning of 3.62 acres from AR, Agricultural-Residential to C-2, Commercial. The property is Lot 500-19, North Indian Creek Estates in the Fifth Election District; shown on Tax Map 1, Block 16 as part of Parcel 98. The applicant is also requesting to alter the 1979 Agreement stipulating that Parcel 98/B-2 (proposed Lot 6, North Indian Creek Estates, containing eight acres) will be used for multi-family purposes only. The requested change would permit C-2, commercial development on the site.

Mr. Gerred told the members that the applicant had agreed to reserve eight acres for residential use only. In the resolution it was asked that the Board of County Commissioners put in a clause that it could be amended later if something happened. Mr. Gerred stated that in addition to that, the applicant had asked for a rezoning to C-2, commercial to be used for sewage easement and for parking.

Following brief discussion, the Commissioners concurred with the Planning Commission's recommendation and the requirement to have proper screening.

President O'Dell then commented that his opinion was going to be based on three things: 1. The Rezoning Hearing on March 10, 1987; 2. Rezoning Application dated March 10, 1987; and 3. Personal visitation of site and surrounding properties on March 13, 1987. President O'Dell then submitted his written opinion, (letter dated March 24, 1987) which including the following:

1. Prior zoning decisions have not adequately protected the interests of residential property owners residing on Mohawk Drive and certain sections of Indian Creek Subdivision; in particular, better buffer zone including but not limited to screening, noise, traffic and lighting inconveniences should have been a part of the site plan approval;
2. Agreement between applicant and County dated 1/20/79 should be maintained as agreed between both parties. Development of property in either residential or commercial use will have a negative impact on existing residential neighborhoods. Applicant has the opportunity to reverse prior agreement by court procedure;

3. There is little doubt that the County in general would be better off with the property being developed commercially; however, I believe that considering the present neighborhood area, what the neighborhood was on adoption of the zoning ordinance, how it has markedly changed since 1974. I, therefore, oppose any further erosion of the conditions impacting the landowners in the neighborhood;
4. There is little doubt that the neighborhood has changed; however, there is nothing provided to support why additional commercial space versus multi-family housing is justified, one versus the other;
5. Transportation, access to property, water supply, sewage disposal, will have varying degrees of impact if used in either a commercial or residential development. At this juncture it is difficult to access the impact of commercial versus residential in ascertaining the relative merits of each;
6. Fiscal impact can be measured again if more precise information was available. The applicant has not provided sufficient supporting data in answering this component;
and;
7. In the event the majority of the Board of County Commissioners votes in favor of the rezoning request I suggest that the requirements for the buffer zone be stringent and under any condition assure the effected residents that they will not have to see or hear unreasonable environmental degradation of their current habitat in the neighborhood. The multi-family housing impact will be profound enough on the neighborhood as it currently exists. President O'Dell then informed the members that it was his decision to deny the applicant's request for rezoning.

Commissioner Jarboe asked Mr. Gerred what kind of screening would be used at the site and Mr. Gerred replied that certain specifications would have to be set. Mr. Gerred said that screening could be done with a fence or with vegetation. Commissioner Jarboe then stated that the buffer should provide screening at least for the first floor.

Commissioner Bailey made a motion to authorize the County Attorney to prepare the appropriate resolution approving the rezoning request based upon staff recommendation as follows: "This information indicates that, indeed, it would be a mistake to allow 80 - 120 DU's on 8 acres. However, the removal of the restriction of use would be lifted and buffer requirements should be enlarged. The requested rezoning was denied. Commissioner Lancaster then seconded the motion, and it was unanimously passed.

Commissioner Bailey moved, seconded by Commissioner Thompson, to proceed as recommended by the Director of Public Works. Motion carried.

COUNTRYSIDE SUBDIVISION

Commissioner O'Dell explained that Mr. Swarey, developer of Countryside, had appeared before the Board on March 17 seeking a resolution regarding the road in the referenced subdivision in conjunction with the proposed Lexington Park Transportation Plan. Commissioner O'Dell indicated that, as per the minutes of that meeting, the Director of Public Works offered what appeared to be a workable solution. Mr. Norris had suggested that rather than have Mr. Swarey build the road he would give to the County the money that it would cost him to build the road. The county would put in a temporary surface treatment road so that Mr. Swarey could sell lots and build homes. The money would be put in escrow until such time as the Lexington Park Transportation Plan is resolved, after which it would be used as a part of the overall funds for the plan.

Commissioner Bailey moved, seconded by Commissioner Thompson, to proceed as recommended by the Director of Public Works. Motion carried.

BUDGET AMENDMENT NO. 87-31
LEXINGTON PARK STORM DRAINAGE PROJECT

The County Administrator presented the referenced budget amendment transferring funds to the Lexington Park Storm Drainage Project.

Commissioner Thompson moved, seconded by Commissioner Bailey, to approve and sign the Budget Amendment as submitted. Commissioner O'Dell voted against. Motion carried.

PUBLIC FORUM

At this time the Commissioners conducted a public forum accepting comments and questions from the audience.

ADJOURNMENT

The meeting adjourned at 9:50 p.m.

APPROVED,



Joseph P. O'Dell
President