

BOARD OF COUNTY COMMISSIONERS' MEETINGTuesday, September 6, 1988

Present: Commissioner Carl M. Loffler, Jr., President
 Commissioner Robert T. Jarboe
 Commissioner John G. Lancaster
 Commissioner Rodney Thompson
 Edward V. Cox, County Administrator
 Judith A. Spalding, Recording Secretary

(Commissioner Bailey was not presented at the beginning of the meeting.)

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

APPROVAL OF MINUTES

Commissioner Thompson, moved, seconded by Commissioner Bailey, to approve the minutes of the Commissioners' meeting of Tuesday, August 30, 1988, as amended.

APPROVAL OF BILLS

Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve payment of the bills as presented. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) APPOINTMENT

Commissioner Thompson moved, seconded by Commissioner Lancaster, to appoint Richard G. Portee to the Ethics Commission for a term to expire June 30, 1991. Motion carried.

2) REVISED AGREEMENT FORM FOR CASE FORMULA FUNDING
GENERAL LOCAL HEALTH SERVICES

The County Administrator presented the referenced revised Agreement forum for case formula funding for general local health services for the period July 1, 1987 through June 30, 1988 with the Department of Health and Mental Hygiene and St. Mary's County.

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign the Revised Agreement as presented. Motion carried.

3) COMPTON ROAD COMMUNITY SEWER EXTENSION AND WATER PROJECT
REQUEST FOR FUNDS/GRANT AGREEMENT

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign the Request for Obligation of Funds and Grant Agreement for the Compton Road Community Sewer Extension and Water Project. Motion carried.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to meet in Executive Session to discuss a matter of personnel. Motion carried. The Session was held from 9:15 a.m. to 9:30 a.m.

CHANCE WATER COMPANY

Present: Paul Willenborg, Chance Water Company
Ron Strickland "
Mr. Badalamenti "
Elmer Smith "
Chris Cullison "
Larry Petty, Director, Metropolitan Commission

The referenced representatives of the Chance Water Company appeared before the Commissioners to discuss the Chance Water Company, located on Chancellors Run Road in Great Mills, and the possibility of the Metropolitan Commission taking over the system.

Mr. Willenborg explained the history of Chance Water Company, which was established in 1952. There are 38 owners and 48 users. Correspondence was sent to the Board of County Commissioners in 1970 informing them of the existence of the Chance Water Company with the intent of future acquisition by the Metropolitan Commission. Since that time there have been meetings with the Metropolitan Commission and the Chance Water Company representatives.

Mr. Willenborg pointed out that the Metropolitan Commission will not take over the system until it is upgraded, which is estimated to cost approximately \$5,000 per house. Discussion ensued regarding the costs, and Mr. Petty pointed out that the system would have to be upgraded in accordance with the code and would provide fire protection to the community.

During discussion the following alternatives were proposed by the Metropolitan Commission to the Chance Water Company:

1. To continue operate the system themselves
2. To use a Metropolitan Commission operator and pay the costs (hourly rate and overhead)
3. To purchase water from the Metropolitan Commission.

The Commissioners advised the Chance Water Company representatives that the Metropolitan Commission is an autonomous agency separate from County Government, and negotiations should be between Chance Water Company and the Metropolitan Commission. The Commissioners pointed out that the water company representatives would have to make the decision, and they should obtain legal representation.

EXECUTIVE SESSION

SMILE BOARD OF DIRECTORS

Present: Edward V. Cox, County Administrator
Eugene Carter, Director, Office on Aging
Grace Loffler, S.M.I.L.E.

Commissioner Lancaster moved, seconded by Commissioner Bailey, to meet in Executive Session to discuss a matter of personnel. Motion carried. The Session was held from 9:15 a.m. to 9:30 a.m.

LEGISLATIVE PACKAGE REVIEW

The County Administrator presented the Commissioners with the 1989 Legislative Proposals submitted from various sources to date. The public hearing is scheduled for September 15, and additional items may be received prior to and at the hearing. Copies of the legislative package are being forwarded to our legislative delegation.

DEPARTMENT OF COMMERCE
EXPORTING INFORMATION

Present: LoRee Silloway, Director, Baltimore Office
Joseph Mitchell, Director, Economic & Community Development

Ms. Silloway appeared before the Commissioners to inform them of the services provided by the Department of Commerce with regard to exporting. During her presentation Ms. Silloway distributed a packet of information on exporting including description of services, data reports, Business America magazine, sample agreement, list of companies in Maryland and Washington receiving the President's "E" Award, etc. She explained that trade specialists are available to provide counseling and export knowledge to businesses.

During discussion Ms. Silloway offered to work with Joe Mitchell in assisting the County to become one of the Department of Commerce's associates.

In conclusion the Commissioners thanked Ms. Silloway for providing the County with information on exporting and requested additional packets of information.

STAFF LUNCHEON AND MEETING

The Commissioners attended a staff luncheon and meeting at the Garvey Center from 12:00 Noon to 3:00 p.m.

OFFICE OF PLANNING & ZONING
COMPREHENSIVE PLAN WORK SESSION

Present: Robin Guyther, Acting Director, Planning & Zoning
Laura Clarke, Planner
Anita Meridith
Peggy Childs, Recording Secretary
Mary Whetstine

The Commissioners agreed to discuss changes today to send back to the Citizens' Advisory Committee and the Planning Commission, allowing them a specific time period to respond with their comments, after receipt of which the Commissioners would make their final decision on the Plan.

Mr. Guyther stated that he had prepared an outline of topics suggested for discussion today, which he presented to the Board. Their discussion was as follows:

1. Railroad Right-of-Way:

Mr. Guyther suggested the following language be added to the section entitled "Transportation Plan Strategies - Long Range" on Page 28; "The Railroad Right-of-Way should be preserved as a future transportation corridor." After discussion the Commissioners directed staff to rewrite to state "...should be preserved as a future transportation or utility corridor."

2. Intrafamily Transfers:

Staff suggested addition on Page 54: "Private roads or rights-of-way will be permitted for access to lots created for transfer to family members." Mr. Loffler stated that it is interesting that things start off for family members but then are sold off somewhere down the line and other owners come on the property. He said he has had occasion in the last few weeks to go down some of those rights-of-way and see and hear some of the conflicts that go on when roads are not built to county standards, and said he is concerned that we are creating problems for ourselves, especially when it is a very restricted right-of-way and does not have room for a two-lane road and creates a single-lane road for access to a property.

Mr. Guyther said some of the things that Mr. Loffler was talking about occurred when there were no standards at all for county roads, but that 10 ft. rights-of-way are no longer allowed. Three lots must have a 20 ft. right-of-way and up to 30 lots must currently have a 45 ft. right-of-way. Commissioner Jarboe said he had suggested a minimum of a 50 ft. right-of-way that could not be sold or deeded off, and this is where we need to lock that provision in. Mr. Guyther replied that a 50 ft. right-of-way is not justified in some instances, so that is why we went to the 45 ft. He said if the owner wants a wider right-of-way because he needs to develop, he needs to provide that when he comes in for more lots. He reiterated that this is a policy plan only, and any details of widths, etc. should be addressed in the Subdivision Regulations, but this is for immediate family transfers only and this just says if they're for family members you don't have to build the road to a public standard - there will still be a standard, but it doesn't have to be a public road.

Mr. Guyther added that the Commissioners will vote on the road standards, maybe not in this document, but in another document they will vote on the road standards. The consensus of the Commissioners was to leave the language as suggested, pending further comments from the Planning Commission and Advisory Committee.

3. Leonardtwn Development District:

Mr. Loffler stated that he had no objection to the area growth, but he thought the development should be part of a plan that would go hand in hand with the water and sewer plan, that as water and sewer, that they then look to expand their development along with it, because there are a lot of other items that need to have public input when you have growth of water and sewer, especially sewer.

Mr. Guyther pointed to an overlay showing the original town boundaries, and a map showing the planned expansion, developed in concert with the Leonardtown Commissioners. Mr. Loffler said he liked the idea of a 5-year review and he thought that review process needs to be a part of the plan, and he would suggest that we go back to a development plan that fits the water and sewer plan, with a clause that when the water and sewer plan changes, the development district will automatically come up for review.

Mr. Guyther said he knew what Mr. Loffler was saying, but that the water and sewer plan can only change in response to the comprehensive plan - what would happen would be if sewer service was made available it would have to be in concert with this plan, and the water and sewer plan will be rewritten to conform with the comprehensive plan, once it is adopted. He advised that the water and sewer plan was due to have been revised last spring, but we requested an extension of time pending the adoption of the comprehensive plan, so the state is expecting a revised water and sewer plan around the early part of next year. Mr. Guyther said we can do a miniature development plan for this district with the water and sewer plan simply by assigning categories from S-1, immediate priority, to S-4, 10 year a master planning tool. Provided a water and sewer plan be done for this area, the Commissioners had no problem with this proposal.

4. Lexington Park Development District:

Mr. Loffler stated that he is concerned about NESEA and that we haven't done what we can do in the southern end of the county as far as providing industrial parks for NESEA and proper commercial districts that can be themed for the rural climate that's there, but to provide the services that are necessary for a growing part of our community. Mr. Loffler said Capt. Fitrell has come up with a whole different approach to AICUZ, and he thought we should sit down with their needs, but right now we have an awful lot of growth labeled in the 8th District area, far beyond what we currently have, and what he thought we should do is put in as part of the plan that we are going to, within the next two years, come up with an industrial development plan for both the northern and southern ends of the county. If we don't do something now, Mr. Loffler said, it becomes less and less of a possibility that we will ever do anything, and suggested maybe the Commissioners could appoint a committee, or use a standing committee that we have, to advise us on locations of industrial parks.

Mr. Guyther explained that the AICUZ was developed for both sound and safety, and said it actually consists of two levels - the Noise Reduction Zone and the AOA (Aircraft Overflight Area), which is actually the old AICUZ. He said that what Capt. Fitrell was saying is that besides the existing AICUZ, there are other areas at risk, and he was suggesting that development in these areas be limited. Mr. Loffler stated that if we restrict development to the south, we are really expanding the AICUZ zone, and if that is the case, the people that own that property need to know that we are going to formally restrict it, and he thought we should have a serious conversation with the Navy about the restrictions. Mr. Jarboe said he thought what Capt. Fitrell was relating to is where they are going in the life of the Base, and that there will be some additional aircraft overflight areas in that general area, and he thought we should give some consideration to restricting the amount and density of development to the south.

Mr. Jarboe said he thought we need to consider some additional office/warehouse commercial in the St. Inigoes area to support NESEA. Mr. Guyther advised there are 80 acres in the St. Inigoes area and 107 acres in Ridge designated for Village Centers. Mr. Jarboe said he thought, with the growth that is going on at Webster Field, we need to check into what plans NESEA has for their sewer line, depending on what happens there. Mr. Guyther said it depends on who you talk to - that people from Webster Field had come to the committee and said they needed an area for growth and then people from Patuxent had said that any growth in St. Mary's County is not going to be related to Webster Field. He said the committee had relied on that, and that is why they had not established a growth district for St. Inigoes until the very end.

Mr. Loffler said that area continues to grow and that an awful lot of buildings for civilian contractors had been built on the naval facility that could have been off of Webster Field that would have increased our tax base. Mr. Guyther pointed out the warehouses that have been built at the end of Great Mills Road, and Mr. Jarboe stated that those warehouses are impacting the traffic on Great Mills Road and into the Lexington Park area, whereas, the NESEA sewer line could help to make facilities available in the St. Inigoes general area, relieving congestion in the Lexington Park area and helping the overall plan by putting people close to where they work.

Mr. Bailey suggested going back to the advisory committee to see if they could come up with something else for the area and report back within a year - that will give us time to work out where the AICUZ lines are and find out more about the sewer line; he added he thought there were going to be some other things that would need to be looked at in a year.

The consensus was to leave the St. Inigoes Village Center in the plan for now, but to have the committee look at it for the immediate future to meet the growing needs of the naval station.

5. Density in the Rural Areas:

Mr. Guyther confirmed that this is the 10-8-5 one unit per 10 acres with 50% open space; one unit per 8 acres with 60% open space; and one unit per 5 acres with 70% open space; and there are no minimum lot sizes. Mr. Loffler asked what if we reduced everything back down to 8-6-3, to still encourage the cluster? Mr. Guyther stated that he is going to disagree with the committee here, and was glad there were some members present to hear what he said, because he thought the sliding scale was really more complicated than it needs to be, and he thought we should pick the lowest one and require it. Mr. Loffler said his only concern with that was that the whole purpose of the 10-8-5 to him was to promote the clustering, to leave open space for future generations and maintain the rural character for an extended period of time, whereas if we just go to a flat 5 acres, or 3 acres, or whatever, does that still encourage the clustering? Mr. Guyther affirmed that yes, you would still require that amount of open space. Mr. Bailey stated that he didn't see that much wrong with it, except it is a little bit complicated, because if someone was going to develop those 30 lots on the least amount of acreage because it would be cheaper to develop it that way, and he would have the rest of his farm, so he didn't think we need to provide extra incentive to cluster, adding that a 5-acre lot was too much for the average person to keep up.

Mr. Guyther replied if someone bought a 5-acre parcel, he probably would only develop an acre or acre and a half anyway, he would probably leave the balance in woods, so there are ways to deal with the cluster and open space issues that are different than as presented, with a block of lots and a block of open space - those lots could actually, theoretically, cover the whole farm, but could have open space restrictions on the lots - part of the open space could be part of someone's lot, with just restrictions on developing it, so you're not limited to a 70-acre piece and then 20 lots on thirty acres. As to what you could do with that 70 acre piece, you might have a house on it you could sell, or you could give that to the lot owners in open space, or they could each own a part of it, there are a lot of ways you could get your open space and your number of lots. And in 20 years the County might open that space back up again, but this way we will have something to plan with.

Mr. Loffler stated that he has a lot of problems with how much it is going to cost the County to control development rights. Mr. Guyther stated that his office would handle them the same way they handle minor subdivisions - you're allowed to develop 8 lots on a private road on a piece of property; when you develop one or two, they are marked off and put in the subdivision file. Mr. Guyther said he doesn't see this as being any more complicated than that; in fact, he said, he doesn't see it as an administrative problem at all. Looking at it from a buyer's point of view, Mr. Guyther said you would have to structure it correctly. For instance, what we are proposing in Lexington Park, in the R-2 zone, which is similar to what we have now, is if you don't have water or sewer you have one unit per acre; if you have water and sewer you have 4 units per acre; and if you buy development rights you can go to six. If you structure it like this in the Zoning Ordinance you won't have reze those properties - that will be right, just like now they have a right to go to 4 units per acre with water and sewer.

Mr. Loffler asked what would the development rights be for 3 acres per unit and Mr. Guyther replied he thought the development rights should correspond with the subdivision rights - if we start mixing up one transfer right per five acres with one development right per three acres, then we will have administrative problems. At this point, Mr. Guyther stated, the plan only allows you to buy development rights if you are in a development district, town center, or village center, but there is another clause in the plan that if you sell your development rights you can buy them back from somebody else at a later date, up to the number you're allowed to have. Mr. Jarboe stated that if we decide to go with transfer of development rights that provision should be in there, because he said that's the only problem he has with the state program, once you sell your development rights you can't do anything else with that property.

Mr. Bailey said he is not sold on transfer of development rights, but he does like the 3-acre zoning, and said he would go along with the TDRs if they were voluntary. Mr. Guyther suggested to the Commissioners that when a development right is bought it would have to be put down someplace else, to avoid people buying them up and then sitting on them; however, this could be done in certain areas under the plan now - the committee had felt if it creates more of a market, let them go ahead and do it. Mr. Loffler asked who has control, and Mr. Guyther said TDRs would have to be accomplished with a deed, which would have to be approved by the Planning Commission, containing where the property came from and the person to whom it was being transferred, not a place. He said Mr. Spence, Director of the Assessment Office, had indicated the seller would not be taxed, and Mr. Bailey raised the question of how you would tax something that isn't going anywhere. Mr. Guyther stated that he did not know, but once they were used the County would benefit from taxes generated by their use. Mr. Bailey said he thought we should hold off on TDRs because, theoretically, someone could take property off the tax rolls without putting it back on anywhere; however, Mr. Guyther said, this was property taxed at a very low rate. He said the committee had developed figures showing that if you took everything in the county off the tax rolls that is not assessed residential, commercial, or industrial, the figure would be \$270,000.

Mr. Loffler stated that he would like to see the Commissioners send the plan back to the committee without the TDRs, and if they really believe in the TDRs they can come back with a stronger argument. Mr. Guyther said he didn't think they would get a stronger argument, because it really hasn't been a technique long enough to develop any hard data on it - it's only been a technique for 10-12 years, and it's only been working for 5 or 6. Mr. Jarboe asked, under the new plan, how many houses would be allowed in the 8th District. Mr. Guyther said generally it would be 4 per acre, but on a parcel you could go up to 15 per acre. However, he said, whatever development district is approved, we are going to have to go in and zone these pieces of property, because people are going to want to know what is likely to happen next to them. Mr. Jarboe stated that everything in the area of water and sewer that hasn't already been approved should be one zoning, and if they want higher density they will have to purchase the development rights, because that's the only way you're going to develop a market, and that's the only fair and equitable way of zoning. Mr. Guyther stated that some people paid a lot of money for some of the land in the 8th District and we would have a lot of people complaining if we down-zoned their property. Mr. Jarboe said we would also have a lot of people complaining about additional impact fees that would be charged for the 8th District.

Mr. Guyther said people are going to want to know what areas are zoned for townhouses, what areas are zoned for mobile home parks, and what areas are going to be zoned commercial, so we are going to have to go into that area and do some general zoning in that area, and that's not just done out of thin air, you take what roads are there, and if there's a townhouse development there you would probably zone it next to some more townhouses. Mr. Guyther said those are the kinds of things our consultant will have to help us with when we get that far along, and that will probably be as controversial or more so than what we are doing now.

Mr. Loffler said he still really has a problem with TDRs - he said he doesn't think they're going to be simple and he thinks they create a lot of problems, and he thinks, as Mr. Jarboe asked, how do you do it equally? Mr. Loffler asked for a consensus, and the Commissioners agreed to go back to the committee with 3-3-3, and have the committee come back with TDRs either stripped out or with a workable plan for TDRs, with a good explanation of how they would work.

Mr. Bailey asked how Calvert County handles theirs, and Mr. Guyther stated he doesn't think Calvert County allows you to "bank" TDRs, that the purchase and placement are approved at the same time, and Mr. Bailey said if he agrees with TDRs at all, he thinks that is the way they should work, that they shouldn't be left open to speculators. Mr. Guyther added that originally banking TDRs was not a part of the plan and was allowed only because the committee thought it would create a larger market, but it wasn't a big item in TDRs.

Commissioner Loffler called for each Commissioner's position on TDRs. Commissioner Jarboe stated he didn't have any problem with voluntary TDRs, if you can make a market for them, and added he has said how he sees you can make a market for them. Commissioner Lancaster said he agreed with that, provided that they not be banked. Commissioner Thompson stated he thought the TDRs would compensate the other landholders who happened to live outside of this "chosen" area, and as far as the market was concerned, he said the economy would dictate that, he didn't think you could create a market. Mr. Guyther said you could, sort of, artificially, by zoning things really low so if you wanted development of any density at all you have to buy TDRs - that's what was originally in the plan, called the "mandatory" TDR program, even though it wasn't really mandatory. Commissioner Bailey said he would like to take it back to the committee for an explanation of their thoughts on TDRs, but he thought they should not be banked. Commissioner Loffler said he would like a scenario of how they would work, with an explanation of how the Commissioners would zone something and how TDRs were going to be used, with examples, before Commissioners' approval.

This concluded discussion of the items on the prepared agenda; however, Commissioner Loffler said he had some issues he would like to address. Page 36, under Fire Protection, the American Insurance Association has recommended the desirable level of service as a 3-mile radius in urban areas, and a 10-mile radius in semi-urban areas. He stated a 10-mile radius is a very big diameter, but when we come down to policies we go to 7.5 minutes, which is more like a 3-mile radius. Mr. Loffler said he thought we were imposing a tremendous impact on the County with that, because under the policy it says that "...the county shall consider the establishment of additional fire companies" and now we are getting into the government building fire departments..." so that no new development is more than 7.5 minutes travel time from a fire station." He said you can't go from Bay District Fire Department down Great Mills Road to Route 5 in 7.5 minutes. He said you are talking about changing a policy from volunteer fire companies to a paid fire system, and you have just gone from St. Mary's County to Montgomery County in one fell swoop. Mr. Loffler said he thought the policy was too restrictive, not that it isn't a desirable situation in terms of the timing, and he thought we should keep the 10-mile radius as a desirable goal and always have as our goal to meet the American Insurance Association recommendation, but not to mandate, because of the fire system we have in St. Mary's County. He proposed, and the Board concurred, to eliminate that policy.

Also, right in line with that is that "...rapid response residential sprinkler systems shall be included in all newly constructed dwelling units." Mr. Loffler said that sounds lovely, and, first of all, when we do things like that it should be in the building code, but, in reality, the pressures in our existing systems that MetComm has he doesn't believe will respond to these sprinkler systems. Mr. Bailey asked if your regular wells and pumps will pump that much pressure, and Mr. Guyther said with these rapid response systems they will, because they are made of plastic pipe and only use about 10lbs. of pressure, but he said Mr. Loffler was right, in large areas you couldn't do it, but that these are made so that you can hook them up to your own house and your own well, and they dump into your toilet. Mr. Loffler said, to him, that would be something we would encourage owners to do, and something we could look at in a building code as we become more urban, but he questions whether or not we want to incur this added expense into our housing and he questions how many lives it would save. Mr. Guyther stated that Mr. Fairfax has been championing this for several years, and perhaps he could talk to the Commissioners about it, but Mr. Loffler said he is proposing the dropping of this language and the Planning Commission could come back in and defend.

Commissioner Loffler also proposed eliminating the reference to Harry Lundeberg School on page 46. He said it is referring to working with institutions, and we have a lot of institutions in our community, and one should not be singled out in the plan - he added if we included everything that should be in, thanking people and so forth, it would really create a problem. The Commissioners agreed.

Commissioner Jarboe stated that, on page 37, it says "...new library facilities shall be located in populated areas. he said he doesn't know how many other places that "shall be" exists, but he doesn't think it should be in there, maybe it should say it "should be". Commissioner Loffler agreed, he said the Commissioners have the control of where libraries are located, and there may be good reasons for not locating a library in a populated area, maybe the costs would be so prohibitive that you wouldn't have a library, whereas maybe we could afford to put one just a little bit out of town, on a bigger pece of land, maybe twice the size, and really make a nice facility. The Commissioners agreed that "should" would give the proper guidance and desired flexibility to elected officials in setting the infrastructure, and the committee should look at replacing "shall" with "should" in these instances throughtout the plan.

Commissioner Loffler stated that the Commissioners have given some ideas they would like to have finalized and come back to the Commissioners, so if it came back to them next Tuesday, September 13, 1988 they could move to forward the plan back to the Planning Commission to be reviewed by them and the Comprehensive Plan Committee and give them weeks might be pushing it to get it to the advisory committee and the Planning Commission and back; the Commissiners set a 30-day time period for this response.

Commissioner Jarboe pointed out on page 53 the plan states "...large lot subdivisions for agricultural use may be permitted provided the minimum lot size shall be 20 acres." He said he thought that was critical areas. Mr. Guyther said this would allow someone to sell of a 20-acre piece of their farm to the adjoining farm, for instance, without having to set aside open space; however, density calculations would be based on the remainder of the farm.

Commissioner Loffler recapped for Mr. Guyther that as far as the Lexington Park development area, what the Commissioners had said is that within the next year there would be a review of the southern end of the County, including NESEA, but leaving the line where it is for now.

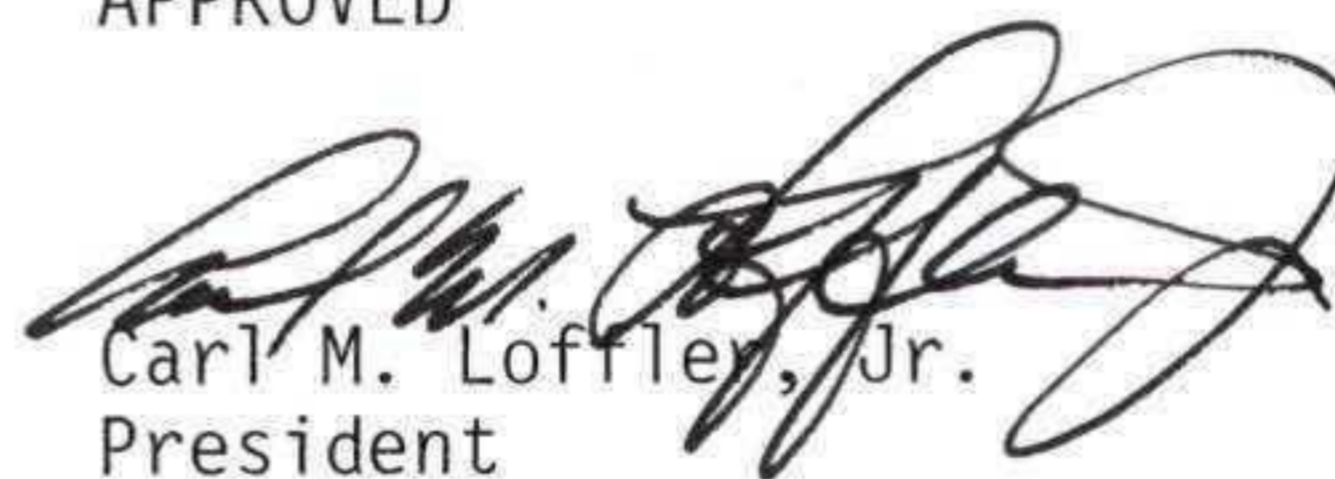
Commissiner Jarboe asked about an economic impact study, and Mr. Guyther stated that that was never envisioned to be a part of this plan - that someone would have to be hired to perform that study.

This concluded the work session on the Comprehensive Plan.

Commissioner Loffler stated there was a motion on the floor to pay the bills; all Commissioners voted in favor.

The meeting was adjourned at 4:50 p.m.

APPROVED


Carl M. Loffler, Jr.
President