

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
December 9, 1997**

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
John J. Kachmar Jr., County Administrator
Judith A. Spalding, Recorder

(Commissioner D. Christian Brugman was not present at beginning of meeting.)

CALL TO ORDER

The meeting was called to order at 11:00 a.m.

EXECUTIVE SESSION

Commissioner Eagan moved, seconded by Commissioner Chesser, to meet in Executive Session to discuss a matter of Personnel (County Attorney's Evaluation), as provided for in Article 24, Section 4-210(a)1. Motion carried.

(During discussion of the motion, Commissioner Jarboe indicated that there have been enough sessions on the Attorney's evaluation, and that if it is not resolved today, he will vote against another executive session on this subject.)

Personnel (County Attorney Evaluation)

Present: Commissioner Barbara R. Thompson, President
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
Douglas S. Durkin, County Attorney

(Commissioner D. Christian Brugman was not in attendance.)

Authority: Article 24, Section 4-210(a)1
Time Held: 11:10 a.m. - 1:25 p.m.
Action Taken: The Commissioners continued review of the County Attorney's evaluation.

(Commissioner Brugman entered meeting.)

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Chesser, to approve the minutes of Tuesday, December 2, 1997 as corrected. Motion carried.

APPROVAL OF CHECK REGISTER

Commissioner Jarboe moved, seconded by Commissioner Chesser, to authorize Commissioner Thompson to sign the Check Register. Motion carried.

ADDITIONS/DELETIONS TO AGENDA

Commissioner Jarboe moved, seconded by Commissioner Eagan, to accept the agenda with the following amendments: to add a presentation to Dan Ichniowski, to add a discussion regarding release of county audits, and to add an executive session on Personnel - Nursing Center. Motion carried three to two with Commissioners Thompson and Chesser voting against.

Commissioner Thompson voted against because she did not know the specifics of the request for discussion on release of audits.

CONSENT AGENDA

Correspondence:

1. Mr. Joseph A. Wilkinson concerning reappointment to the Nursing Center Advisory Board.
2. To the Nursing Center Advisory Board Members regarding the Ethics Commission's Advisory Opinion No. 97-05.
3. a) To individuals regarding submission of the 1996 Financial Disclosure Statement, no longer a member of commission or board.

b) To individuals regarding submission of the 1996 Financial Disclosure Statement, still a member of commission or board.
4. To Delegate Thomas E. Hutchins regarding the development of grant funding for criminal justice educational opportunities.
5. To Fred J. Wallace regarding the Community College concerns.
6. To John J. White regarding plumbing inspections.
7. To F. Hamer Campbell, Jr. regarding the Suburban Maryland Building Industry Association's response to the Draft Comprehensive Plan.
8. To Gary Loikith expressing appreciation for comments on First Colony.
9. To Lawrence Pinto regarding Myrtle Point.
10. To James Latchford regarding solid waste disposal in St. Mary's County.
11. To Thomas Lanzi regarding First Colony.
12. a) To Joan Pierotti regarding First Colony.
b) To John Horton regarding First Colony.

Commissioner Eagan moved, seconded by Commissioner Jarboe, to approve the Consent Agenda as presented. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: John J. Kachmar Jr., County Administrator

1. **Grant Agreement - Office of Central Services**
(Mass Transit - Rural Transit Assistance Capital Grant Agreement - Federal: \$50,680; State: \$6,335; County: \$6,335) Project Description: Purchasing one small diesel bus with lift; grant Application was approved by Commissioners 1/97.

Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and authorize Commissioner Thompson to sign the Capital Grant Agreement as presented. Motion carried.

2. **Boards, Committees, Commissions**

a. **Agriculture, Seafood and Forestry Commission**
(1) **Approval of Revised Bylaws**

Commissioner Jarboe moved, seconded by Commissioner Brugman, to sign and forward the letter approving the revised bylaw as presented. Motion carried.

(2) **Resolution No. 97-48**
Amending Name of Commission to include Forestry

Commissioner Chesser moved, seconded by Commissioner Jarboe, to approve and sign Resolution No. 97-8 amending the of the Agriculture/Seafood Commission to include Forestry, as presented. Motion carried.

b. **Letters of Appointment**

Commissioner Eagan moved, seconded by Commissioner Chesser, and motion carried, to make the following appointments:

<u>Adult Public Guardianship Review Board</u>	<u>Terms to Expire</u>
Kimberly D. Gascheidle (Reappt.)	12/31/2000
Tom Stokel "	12/31/2000
<u>Agriculture, Seafood and Forestry Commission</u>	
John C. Houser	12/31/2000
Karen S. Morse	12/31/2000
<u>Commission for the Disabled</u>	
Jack Hormell (reappt.)	12/31/2001
<u>Commissioner for Women</u>	
C. Beth Roth	6/30/2000/2004
<u>Electrical Examiners Board</u>	
Donald M. Hasin (reappt.)	12/31/2001
George Kalnasy "	12/31/2001
<u>Emergency Services Committee</u>	
William H. Keogel	No Term
<u>Family Assistance Center Advisory Committee</u>	
Daniel B. Schaidt	12/31/2000
<u>Historic Preservation Commission</u>	
Lawrence S. Haskell	6/30/2000
Robert J. Hurry	6/30/98/2001

Commissioner Jarboe moved, seconded by Commissioner Eagan, to sign and forward the letters of appointment. Motion carried.

c. **Letters of Appreciation**

Commissioner Chesser moved, seconded by Commissioner Brugman, to sign and forward the letters of appointment. Motion carried.

3. **Southern Maryland Interagency Consortium for Children and Families, Inc.**

(Contract between Board of County Commissioners and the Southern Maryland Interagency Consortium for Children and Families for services of Becky Stevens of the Office of Community Services.)

Commissioner Eagan moved, seconded by Commissioner Brugman, to approve and authorize Commissioner Thompson to sign the Contract for Services as presented. Motion carried.

4. **Long-Term Disability Insurance Benefit
Inclusion of Library Staff Members**

By memorandum dated December 3, 1997 the Benefits Coordinator requested direction from the Board whether Library staff members should have the opportunity to be enrolled into the new long-term disability insurance benefit. They are currently enrolled in the County's Blue Cross Blue Shield flexible health benefits plan and the new ReliaStar life insurance plan.

During discussion Mr. Kachmar recommended against this stating that the library employees are not technically county employees. If they participate in the LTD they would get factored into the County's risk rate and could affect the county employees' premiums if a library employee has the need for LTD.

After discussion the Commissioners agreed to defer a decision to include library staff members until next year.

5. **Crenoline Farm Foreclosure
Acceptance of Deed**

As a follow up to discussion in a previous executive session, Commissioner Eagan moved, seconded by Commissioner Chessner, to approve and authorize Commissioner Thompson to sign the Deed as presented. Motion carried.

6. **Resolution No. 97-47
United Cerebral Palsy of Southern Maryland, Inc.
Resolution Approving Lexington Park as the County's "Designated Neighborhood"**

Also Present: Dennis Nicholson, Housing Authority

By memorandum dated December 1, 1997 Mr. Nicholson advised that the United Cerebral Palsy is proposing a program for the Lexington Park area wherein tax credits would be provided to United Cerebral Palsy. UCP can then sell these tax credits to businesses to earn necessary training dollars to support UCP's Home Health Aid Training and Placement Service Program.

Commissioner Jarboe moved, seconded by Commissioner Eagan, to approve and sign Resolution No. 97-47 as presented. Motion carried.

7. **Information Release
St. Mary's Nursing Center
Maryland Department of Health and Mental Hygiene Survey Results**

The County Administrator presented an Information Release indicating that the Nursing Center has received excellent marks following a recent survey by the Maryland Department of Health and Mental Hygiene, Licensing and Certification Administration.

Commissioner Brugman moved, seconded by Commissioner Eagan, to approve the distribution of the Information Release as presented. Motion carried.

8. **Day After Christmas**

The County Administrator advised that the day after Christmas has been declared a holiday by federal and state government, and that Charles and Calvert Counties have also declared it a holiday.

Commissioner Brugman moved, seconded by Commissioner Jarboe, to grant the day after Christmas, a Friday, as a holiday. Motion carried.

Commissioner Brugman moved, seconded by Commissioner Chesser, to distribute an Information Release granting county employees the day after Christmas as a paid holiday. Motion carried.

9. **Health Care Benefits
St. Mary's Nursing Center**

Also Present: Steve Helwig, Comptroller, Nursing Center

The County Administrator advised that he had been notified by the Nursing Center that the Center had received a proposal from a private health care provider which would require a change in their benefit package contract. The change would result in a savings to the Center in the approximate amount of \$68,000, the employees end up with a better benefit package because this HMO is more inclusive than the current HMO they have, and the rates are better.

Mr. Helwig explained that employees met with health care officials, Center officials did a survey of employees, and the majority were in favor of going with the new plan. It is similar to the current plan with a few minor differences.

After discussion the Commissioners gave their concurrence to accept the change in the health care package for the Nursing Center.

10. **Local Management Board Documents**

The County Administrator advised that the Local Management Board draft documents have been prepared and will be given to the Commissioners. He suggested that they review them and that the documents would be a matter of discussion at next week's meeting.

11. **Nursing Center Audit documents**

The County Administrator advised that Commissioner Chesser had requested the draft audit report done by Diversified Health Services and requested direction from the Board based on the vote on the motion made last week (motion to release all Nursing Center audit report documents which failed 2-2-1). Commissioner Chesser reiterated his request for these documents, and Mr. Kachmar indicated that he had met with DHS representatives and turned all documents back over to them.

After discussion Commissioner Eagan moved, seconded by Commissioner Brugman, to direct the County Administrator to contact DHS and request five copies of the entire Nursing Center audit report documents (draft and final). Motion carried.

During discussion of the motion:

- * Commissioner Chesser pointed out that he had excluded requesting information pertaining to the 1993 audit because a previous board of county commissioners made a non-disclosure agreement with an individual involved in that audit, and out of respect for that decision of that board, he excluded that information from his request.

- * Commissioner Thompson indicated that the Commissioners should have an opportunity to review the documents, and if there are problems that need to be addressed, to deal with those problems.
- * Commissioner Jarboe stated he talked to the County Attorney, and that because this is a public information issue, he and his father would not have a personal issue regarding this and he would be voting on this motion.

Commissioner Jarboe moved, seconded by Commissioner Eagan, that all taxpayer-funded audits in possession of county staff, now and from now on, be given to any member of the public who requests them within one week of the request. Motion carried four to one with Commissioner Thompson voting against because release of all audits would mean the release of the 1993 Nursing Center audit which was a confidential document.

During discussion of the motion, because of a potential liability issue, the Commissioners requested the County Attorney to come to the meeting to address whether release of the 1993 audit would put the county in jeopardy.

(Commissioner Durkin entered the session at 1:50 p.m.)

In response to the potential liability question, Mr. Durkin responded that he believed it would put the Commissioners in jeopardy.

COUNTY COMMISSIONERS' TIME

American Heritage Rivers Initiative

As a follow up to last week's discussion, Mr. Brugman presented three letters for the Commissioners' consideration relative to the referenced Initiative (1) to President Clinton supporting inclusion of the Potomac River in the program; (2) to President Clinton supporting the Initiative program, and specifically the inclusion of the Patuxent River in the program and stating that under separate letter the Commissioners are endorsing the inclusion of the Potomac River; and (3) to Senator Paul Sarbanes supporting the Initiative as well as support for inclusion of the Potomac River program and citing certain concerns raised by County staff and concerns addressed at a meeting in LaPlata last week.

Commissioner Brugman moved, seconded by Commissioner Jarboe to send Letters 2 and 3. Motion carried.

Commissioner Jarboe moved, seconded by Commissioner Chesser, to also send Letter #1 to President Clinton which specifically addresses the Potomac River. Motion carried four to one with Commissioner Brugman voting against stating he believed that Letter 1 dilutes the concerns particularly of farmers and watermen when it specifically mentions nutrient runoff and lack of discussion regarding the seafood industry.

Appointment to Tri-County Council

Commissioner Thompson advised that Tri-County Council is requesting the Board to nominate the Commissioner representative to the Executive Board of the Council.

Commissioner Brugman moved, seconded by Commissioner Jarboe, to nominate Commissioner Eagan to serve as the Commissioner representative. Motion carried.

**ST. MARY'S NURSING CENTER
MISSION STATEMENT**

Present: Lynn Delahay, Chair, Nursing Center Board
(Nursing Center Board Members)

Ms. Delahay appeared before the Commissioners to present and request the Commissioners' approval of the St. Mary's Nursing Center Mission Statement, Value Statement and Vision Statement: **Mission Statement:** The Nursing Center is a comprehensive care facility providing skilled health care and comfort including rehabilitation services, in conjunction with the resident's private physician to facilitate optimum quality of life by utilizing available resources for all citizens; **Value Statement:** Caring; Organization; Moral Responsibility; Family Focus; Outcomes; Respect; Teaching; **Vision Statement:** The Nursing Center will be valued as an integral partner in the care, comfort, and rehabilitation of our community residents. Our future will be built on welcoming change and being proactive with future ideas.

In conclusion the Commissioners gave their approval of the referenced Statements.

**PUBLIC HEARINGS
FISCAL YEAR 1997 SUPPLEMENTAL APPROPRIATION**

Present: Steve Welkos, Director of Finance

The Board of County Commissioners conducted the following public hearings:

Office of Community Services

Also Present: Joe Dick, Director, Alliance

To consider a supplemental appropriation of funds in the amount of \$28,000 from the Governor's Office of Crime Control and Prevention as follows:

HOTSPOT - Youth Prevention Byrne Grant Award in the amount of \$23,000 for the purpose of providing after school prevention programs at Spring Ridge Middle School and Chancellor's Run Regional Park Teen Center.

HOTSPOT - Mobilization Grant Award in the amount of \$5,000 for the purpose of outfitting Community Action Team Patrols and providing incentives for community organization in HOTSPOT neighborhoods.

Hearing no comments or questions from the audience, the public hearing was closed; the record will remain open for ten days.

Office of the Sheriff

Also Present: Barbara Dotson, Fiscal Analyst

To consider a supplemental appropriation of funds in the amount of \$62,816 from the United States Department of Justice, Bureau of Justice Assistance to the Office of the Sheriff for the purpose of reducing crime and improving public safety, under the Local Law Enforcement Block Grants Program for St. Mary's County.

Hearing no comments or questions from the audience, the public hearing was closed; the record will remain open for ten days.

PRESENTATION TO DAN ICHNIOWSKI

The Commissioners presented a gift (clock with inscription) to Dan Ichniowski, who has resigned as Director of Public Works, effective December 12, 1997.

DEPARTMENT OF RECREATION AND PARKS LAUREL RIDGE PARK

Present: Phil Rollins, Director

Mr. Rollins appeared before the Commissioners to request approval of a Deed for the 6.5 acre Laurel Ridge Park on Golden Beach Road in Charlotte Hall. Laurel Ridge Park was built by the developer in lieu of payment of park impact fees as per an October 1987 agreement between the County Commissioners and Israel Swarey and was accepted by the County in September 1993. However, due to an oversight the deed to convey this property to the County was not executed at that time. A legal description and survey have been completed and a commitment for title insurance obtained.

After discussion Mr. Rollins requested the Commissioners' approval of the Deed and authorization for Commissioner Thompson to sign the document.

Commissioner Jarboe moved, seconded by Commissioner Brugman, to authorize Commissioner Thompson to sign the Deed as presented. Motion carried.

DEPARTMENT OF PLANNING AND ZONING ANIMAL SHELTERS - PROPOSED AMENDMENT TO ZONING ORDINANCE

(All Commissioners were present. DPZ staff present were Jon Grimm, Director; and Peggy Childs, Recording Secretary. Members of the St. Mary's Animal Welfare League were also present.)

Text Amendment to define "Animal Shelters," to add this use to the Table of Uses 2.5, and to provide Performance Standards under Section 53.27.

This public hearing was conducted on November 18, 1997. During public testimony, Dick Myers, a Board member of the St. Mary's Animal Welfare League, asked that, as the result of a recent court case, the proposed definition be changed to add the words "open to the public" and to remove the restriction of five (5) animals. Following public comment and questions from the Commissioners, the hearing was closed. Neither staff nor the Planning Commission have any objections to the definition change and no further comments were received during the open record period.

Commissioner Thompson had questions about the proposed change in definition. The reason explained by Mr. Myers was that the limitation would greatly impact the fostering of cats as an accessory use. Some limitation would still be required; the level of activity of an accessory use cannot exceed that which is clearly incidental, subordinate, and related to the principal use of the property. In that case, the facility would need to move to another location. Commissioner Chesser asked if the Health Department has any jurisdiction over abuse of the facilities. Mr. Grimm replied that he did not know but would check for Mr. Chesser.

Commissioner Jarboe moved to amend the Zoning Ordinance to add Animal Shelters as recommended by the Planning Commission, with the minor amendment to the definition as proposed by the St. Mary's Animal Welfare League. Seconded by Commissioner Chesser and passed by unanimous vote.

Commissioner Eagan moved to direct staff to prepare an Ordinance reflecting the above motion. Seconded by Commissioners Jarboe; passed by unanimous vote.

MEREDITH PROPERTY DRUG FORFEITURE

Present: Steve Norman, County Attorney

As a follow up to previous discussions, Mr. Norman explained the process for ejectment of the Meredith family from the property located on Thompson's Corner Road. He stated that according to the *Real Property Article Section 14-109 of the Annotated Code of Maryland*, a simplified pleading will have to be filed in District Court, after which the Court will issue a summons to Raymond Meredith to appear for a "show cause" hearing. The Court will determine who shall have possession of the property at that time. If the Court finds for the County, it will issue a warrant to be served to Mr. Meredith requiring him to deliver possession of the property to the County.

After discussion Commissioner Jarboe moved, seconded by Commissioner Chessser, to direct staff to send a Registered Letter requiring the removal of the trailer within 30 days of receipt of the letter.

Commissioner Jarboe moved, seconded by Commissioner Chessser to amend the motion to state "removal of the trailer and to vacate the premises. Motion carried.

Vote on the amended main motion was unanimous.

FIRST COLONY PUBLIC HEARING FORMAT

Commissioner Thompson advised that the Assistant County Attorney has advised that once the Commissioners hear testimony from the expert witnesses, the Commissioners should allow the applicant an opportunity for rebuttal. She further pointed out that the Commissioners had agreed last week to keep the continued hearing to two hours (one hour for expert witnesses and the remainder for public input). However, the letter from the expert witnesses requests 80 minutes, and she requested a consensus from the Board as to how to proceed.

In conclusion the Commissioners agreed that if there was not adequate time for public input, the hearing could be continued again.

EXECUTIVE SESSIONS

Commissioner Brugman moved, seconded by Commissioner Eagan, to meet in Executive Session to discuss matters of Personnel (Mental Health Authority and Nursing Center), as provided for in Article 24, Section 4-210(a)1. Motion carried.

Personnel (St. Mary's Nursing Center)

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chessser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
John J. Kachmar, Jr., County Administrator
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)11

Time Held: 4:07 p.m. - 4:28 p.m.

Action Taken: The County Administrator advised the Commissioners of a personnel matter, and the Board agreed to take action in open session.

Personnel (Mental Health Authority)

Present: Commissioner Barbara R. Thompson, President
Commissioner D. Christian Brugman
Commissioner Paul W. Chesser
Commissioner Frances P. Eagan
Commissioner Lawrence D. Jarboe
John J. Kachmar, Jr., County Administrator
Judith A. Spalding, Recorder

Authority: Article 24, Section 4-210(a)11

Time Held: 4:28 p.m. - 4:48 p.m.

Action Taken: The County Administrator reviewed a personnel situation and requested direction from the Board.

FOLLOW UP TO EXECUTIVE SESSIONS

St. Mary's Nursing Center

Commissioner Eagan moved, seconded by Commissioner Chesser to accept the resignation of Jeff Lloyd, Administrator, St. Mary's Nursing Center, noting there is a 60-day notification requirement in the contract, that the Commissioners would like to have as much of that 60 days as possible or until a replacement is found (but not before January 9, 1998), and further to release the Public Information Release. Motion carried.

Commissioner Eagan moved, seconded by Commissioner Chesser, to direct the County Administrator to advertise for replacement of the Nursing Center Administrator. Motion carried.

Mental Health Authority

Commissioner Jarboe moved, seconded by Commissioner Chesser to direct staff to proceed as discussed in Executive Session. Motion carried.

CONTINUE PUBLIC HEARING - 6:35 p.m.

ZPUD #96-1607 - FIRST COLONY PUD

All Commissioners were present. DPZ staff present were Jon Grimm, Director; Planner Phil Shire and Peggy Childs, Recording Secretary. Assistant County Attorney Steve Norman represented the Department of Law.

Requesting approval of Development Plan and proposed zoning change from Low Density Residential (RL) and Commercial (C) to Planned Unit Development - Mixed Use (PUD-X). The property contains 228.89 acres and is located at the southern quadrant of MD Routes 235/4; TM 34, Blocks 22/23, Parcels 444, 455, 456, 490 & 516.

Owner: Casimir Szlendak/Porto Bello Development, Inc.

Present: Mr. Szlendak, Donald Cropp, Pat Mudd, Attorney Bill McKissick and other members of the First Colony Development Team
County residents
Ron Burns, of SHA

This hearing was continued from November 25, 1997 to allow one hour for opposing testimony from expert witnesses/consultants on behalf of the Alliance of Concerned Taxpayers and one hour for additional public comment. Attorney Bill McKissick entered Applicant's Exhibit #A-4, requesting that First Colony be allowed time to rebut the expert witnesses' testimony. Based on advice from legal counsel, First Colony will be allowed to rebut or cross-examine following the testimony of each expert witness. If necessary, the hearing will be continued to another night to allow public comment.

Vernon Gray, representing the Alliance of Concerned Taxpayers, protested, saying those rules are unfair. He said the opponents were not allowed to address the development team individually when they made their presentation on November 25th, and his understanding was that this hearing would be for his attorney and four consultants to present their testimony. He requested that his consultants be allowed to provide continuing testimony as the developer was allowed to do, and not be interrupted by

cross-examination. Mr. McKissick replied that First Colony had no problem with that, and the Commissioners acquiesced to Mr. Gray's request.

Attorney Marie Daugherty appeared first for Opponents, identifying areas where she believes the Plan does not meet the Zoning Ordinance or is insufficient. These included height restrictions, bufferyards, landscaping of parking, signs, pedestrian/vehicular access, schools, water/sewer dedication, fire, and the traffic study.

Dr. Patrick Breyse reported on health risks associated with living in close proximity to solid waste landfills. Air emissions from the landfills include methane, carbon dioxide, and nonmethane organic compounds. Human carcinogens such as benzene, carbon tetrachloride, chloroform, methylene chloride, and vinyl chloride are also emitted, and can cause cancer to liver, kidneys and lungs. Dr. Breyse stated there is not yet enough research to quantify the potential carcinogenic risks to people exposed to these landfill emissions.

Dr. David Engelhardt, an education consultant, said he found errors in the formula used to calculate school enrollment projections and disputed the statement that the county school system will accommodate students from the First Colony development. A Traffic Impact Critique and Analysis provided by transportation consultant Dr. Everett Carter concluded that the proposed road improvements will not handle the future travel demand on MD 235. He recommended First Colony be denied or delayed pending further study and analysis and that the developer's traffic study be revised to reflect new information.

Environmental consultant Richard Klein reported on First Colony's impact on the St. Mary's River. Specifically, he said the development, which is located at the headwaters of the River, will:

- (1) Eliminate 72% of the existing forest;
- (2) Slash the volume of high quality inflow by more than half;
- (3) Release 37 million gallons per year of polluted runoff into the River system;
- (4) Cause soil erosion/sediment pollution to increase by 1,300 times during the construction phase;
- (5) Cause nutrient releases to increase by 12 times; and
- (6) Cause toxic metal releases to increase by 8 times.

Cumulative effects of the developments reported by Mr. Klein were that:

- (1) Proposed stormwater ponds will be ineffective to protect aquatic resources;
- (2) Will increase the likelihood of Pfiesteria outbreaks and other problems caused by excessive nutrient loads;
- (3) Will damage the water quality of 7.6 miles of waterways;
- (4) Will cause sediment pollution damages which may last 100 years;
- (5) Will contribute to a decline in the quality of the St. Mary's River which could lower waterfront property values by 10% or more.

Mr. Klein continued that St. Mary's existing environmental programs must be upgraded. He said State erosion/sediment control inspectors are required to check construction sites for adequate control measures every two weeks and stormwater pollution control measures require monthly to quarterly inspections. In St. Mary's County, major construction sites go as long as 35 weeks without state inspection and stormwater pollution controls are inspected once every 3 years. He said infrequent stormwater management inspections leads to failure of stormwater controls; in some cases the failure is dramatic, such as the massive gully which eroded below the Hollywood Elementary stormwater pond.

Mr. Klein concluded that current zoning on the First Colony site would result in far less environmental impact than the requested zoning, and urged that the rezoning be denied while the County upgrades its environmental protection programs.

This concluded the testimony of Mr. Gray's consultants. At this point in the hearing the time was 8:50 p.m. Mr. McKissick waived his right to cross-examine the expert witnesses. Realizing that the hearing could not be concluded tonight, the Commissioners decided to continue the hearing to January 13, 1998, at which time they will hear public comment followed by First Colony rebuttal. Prior to ending tonight's hearing, however, the Commissioners heard from Ron Burns of SHA, Al Stewart of SCS, Robert Lewis and Ken Gerred. Mr. Greess and Mr. Wilkerson will be heard on January 13th.

Mr. Burns, who said he was present at applicant's request, stated SHA has entered into a public-private partnership with First Colony which, if the project is approved, will become a model for the state. Under this partnership, SHA will use First Colony's stormwater management ponds to handle runoff from the 235 road improvements and will use First Colony's interior roads to detour traffic during construction of the 235/4 intersection. Finally, he said the applicant has made certain contributions to the 235 project, in conjunction with the county's adequate facilities policy. If the development is approved and goes in prior to the 235 improvements, there is physical construction that First Colony can do which SHA can tie into. If the 235 improvements are done first, the developer will pay SHA to construct First Colony's accel/decel and left-turn lanes. The single left-turn lane into First Colony in conjunction with the proposed three southbound lanes on 235 should work adequately at Level of Service "D" or better.

Al Stewart, of the Soil Conservation Service, said the developer had asked him to come and speak tonight because he is a proponent of regional stormwater management. He said the county has had nothing but failures using infiltration methods and he believes the more water that runs off the more accurate the stormwater management controls can be. To have the best of both methods he recommends using infiltration systems and small water quality measures in the small areas within the watershed to trap the first one-half inch of rain that falls, which is what carries all the sediment, oil and grease. Mr. Stewart said he has only seen the preliminary plan of First Colony's stormwater management proposal but it was for two regional structures - one controlling a 180 acre drainage area and one controlling a 200 acre area. Once the developer knows what the county will allow, he will calculate the increase in runoff and what volume will go into the structures, and SCS will review his proposal.

Robert Lewis, a member of Friends of the St. Mary's River, read a prepared statement in opposition to First Colony, entered as opponents' exhibit #O-14. The letter states that the people of St. Mary's want a centrally located commercial retail area in the heart of the Lexington Park Development District, surrounded by residential areas which flow into the RPD, and they are dispirited, feeling that their wishes are being undermined by approval of large developments. However, if First Colony is approved, they ask that it include a parking garage; a size limit for retail spaces, a larger public recreation area, state-of-the-art stormwater management, greater setbacks from the county landfill, and an FDR Boulevard that adheres to the current proposal for a thoroughfare with limited access.

Shirley Gerred spoke in her husband's stead, asking whether Mr. Burns was speaking for SHA or for the developer? She urged that SHA form a partnership with the citizens of the county, who are being hurt on 235. She agreed that the State is very negligent in providing the county with our school needs but said the Commissioners have the authority to say "no" to more and more rampant development which is overcrowding our schools, and that's the only way the situation can be helped. She said she has asked that DPZ provide her with information on how many dwellings have already been approved - townhouses, apartments, single-family dwellings, and condos - and asked what that will do to our schools? Finally, if Ms. Daugherty is correct and there are that many zoning ordinance violations in this project, Ms. Gerred asked why the development got past the Planning Commission?

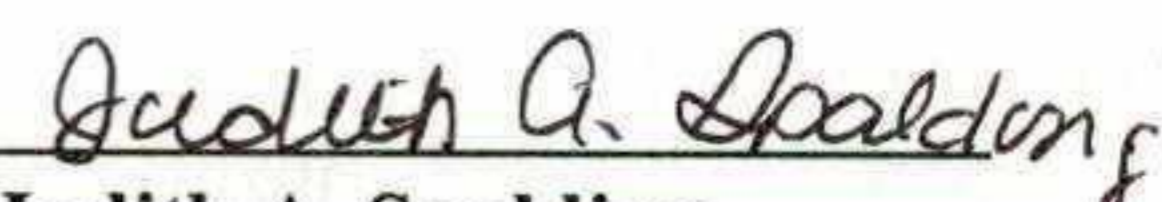
The meeting was adjourned at 9:25 p.m. The public hearing was continued to Jan. 13, 1998 at this same location, at 6:30 p.m.

A complete list of exhibits entered at tonight's hearing and on November 25, 1997 is contained in the DPZ file.

ADJOURNMENT

The meeting adjourned at 9:25 p.m.

**Minutes Approved by Board of
County Commissioners on 12/16/97**


Judith A. Spalding
Recording Secretary