

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS**

July 21, 1992

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

CALL TO ORDER

The meeting was called to order at 11:45 a.m.

(The Commissioners toured the Department of Planning and Zoning prior to conducting the meeting.)

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Bailey, to approve the minutes of the Commissioners' meeting of Tuesday, July 14, 1992. Motion carried.

APPROVAL OF BILLS

Commissioner Bailey moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the Check Register as presented. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) Citizen Advisors' Appreciation Night - Program Letter

The County Administrator presented a letter for the Commissioners' signatures that will be included in the program for the Citizen Advisors' Appreciation Night which will be held August 13.

The Commissioners agreed to sign and include the letter as presented.

2) Descendants of Maryland Catholics - Program

The County Administrator presented correspondence welcoming participants of the 1992 National Reunion of the Descendants of Maryland Catholics to Kentucky which will be held on July 24 - July 26.

The Commissioners agreed to sign and include the letter as presented.

3) Department of Public Works

On behalf of the Department of Public Works the County Administrator presented the following items for the Commissioners' review and consideration:

Railroad Right-of-Way Agreement
Bay Center Associates

Agreement between Southern Maryland Electric Cooperative, Inc. and the Bay Center Association Limited Partnership allowing use of the railroad right-of-way in the vicinity of St. Andrews Church Road for ingress and egress. County Administrator Cox pointed out that in accordance with the Commissioners' request a paragraph was added regarding a requirement for a tie into access to the Bay Center Shopping Center.

Commissioner Thompson stated that the new sentence is confusing and suggested that it be rewritten to clarify the issue of access.

The County Administrator will return next week with a revised document.

Public Works Agreement
Chestnut Ridge, Section 5

Dated June 30, 1992 between Delmarva Properties, Inc. and St. Mary's County Maryland guaranteeing completion of Chestnut Ridge Drive by June 1, 1993. The Agreement is backed by a Letter of Credit with Crestar Bank in the amount of \$92,100.

Public Works Agreement
Maple Run, Section 4

Date June 18, 1992 between Guenther Construction Co., Inc. and St. Mary's County Maryland guaranteeing completion of Victorian Drive and Plantation Court by June 1, 1993. The Agreement is backed by a Letter of Credit with The First National Bank of St. Mary's in the amount of \$219,700.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Public Works Agreements for Chestnut Ridge, Section 5 and Maple Run, Section 4. Motion carried.

4) Grants

The County Administrator presented the following grants for the Commissioners' review and approval:

Child Abuse/Neglect Prevention Education Program

Application to be submitted to the Department of Human Resources by the St. Mary's County on Children and Youth requesting \$4,310 to be used for publicity campaign throughout St. Mary's County. The grant application is identical to a previous application, but is being submitted to another funding source. No county funds are involved.

Rental Allowance Program

Grant Agreement for Fiscal Year 1993 funding in the amount of \$53,210 to be submitted to Community Development Administration.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Child Abuse/Neglect Prevention Education Program Grant Application and the Rental Allowance Program Grant Agreement. Motion carried.

5) Chamber of Commerce - Vested Rights

The County Administrator presented correspondence addressed to the Chamber of Commerce and Subcommittee Chairman responding to their request for an extension of the deadline for vested rights from August 1, 1992 to May 1, 1993. The letter indicates the Commissioners concurrence, but points out that a public hearing is required for an amendment to the Zoning Ordinance.

Discussion ensued as to whether the letter should include the statement that the Commissioners agree with the request or whether it should state it is the Commissioners' intent to extend the deadline.

After discussion Commissioner Bailey moved, seconded by Commissioner Lancaster, to revise the letter to indicate that it is the Commissioners' intent to extend the deadline. Motion carried four to one with Commissioner Thompson voting against.

Later in the meeting, the County Administrator presented a revised letter to the Chamber of Commerce. The Commissioners noted that the letter did not include the Commissioners' position on the request, but noted the need for a public hearing.

After discussion Commissioner Bailey moved, seconded by Commissioner Jarboe, to sign and forward the revised letter as presented. Motion carried.

6) Tri-County Council
Funding Request - Step Increases

As requested by the Commissioners last week, the County Administrator re-presented correspondence from Tri-County Council dated July 9 requesting the Commissioners' consideration for a \$3,920 increase in the budget to fund step increases for eligible staff.

After discussion Commissioner Lancaster moved, seconded by Commissioner Jarboe to fund the step increases as requested in the amount of \$3,920. Motion carried three to two with Commissioners Loffler and Thompson voting against.

7) Metropolitan Commission - New Positions

The County Administrator presented a letter dated July 20 from the Metropolitan Commission requesting approval of new staff positions as required by the County Code. The positions are: Collections Clerk (Part-Time), Construction Division Laborer, Electrician, and Operations Secretary/Dispatch.

Commissioner Loffler suggested that the Metropolitan Commission meet with the County Commissioners to discuss justification for new staff as well as its operation and management plan.

The Commissioners will defer action on these positions until a meeting with Metropolitan Commission representatives.

8) Budget Amendments

The County Administrator presented the following Budget Amendments recommended for approval by the Director of Finance with justifications as indicated:

No. 93-2 - Tri-County Council

To provide additional funding approved by the Commissioners on June 30 (\$2,622).

No. 93-3 - Social Services

To provide funding for burial assistance (\$682).

No. 93-4 - Office of Community Services

To provide funding for the Commission for Disabled as approved by the Commissioners on July 14.

No. 93-5 - Various Spending Units

To provide budget authority to departments based on encumbrances unliquidated at year-end (\$4,106,881).

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

9) Appointments

Commissioner Bailey moved, seconded by Commissioner Jarboe, and motion carried to make the following appointments.

<u>Community College Advisory Board</u>	<u>Term to Expire</u>
Joan D. Kozlovsky	No Term
<u>Nursing Center Board</u>	
Frank Lawrence	6/30/95

10) Correspondence - Freewing Aircraft Corporation

The County Administrator presented correspondence addressed to Mr. Hugh Schmittle indicating that DECD staff is working with Freewing to complete the Maryland Industrial Land Act and Community Development Block Grant applications relative to the construction of a structure adjacent to the county airport.

The Commissioners agreed to sign and forward the letter.

ST. MARY'S COUNTY COLLABORATIVE CHILD CARE PROPOSAL

Present: Becky Stevens, Community Services Coordinator
Sharon Morgan, Education Coordinator, Head Start

The referenced individuals appeared before the Commissioners to present the Early Childhood Development and Before and After School Child Care Programs Funding Application entitled "St. Mary's County Collaborative Child Care Proposal." The proposal, in the amount of \$56,341, is geared towards full-day, year-round care for children in the targeted school areas including training and support to care providers.

After discussion Commissioner Thompson moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Early Childhood Development and Before and After School Child Care Programs Funding Application. Motion carried.

**AGRICULTURE/SEAFOOD COMMISSION RECOMMENDATIONS
APPLICATION OF SLUDGE TO FARMLAND**

Present: Donna Sasscer, Agriculture/Seafood Coordinator

As a follow up to the July 7 presentation by the Agriculture/Seafood Commission's of its study of the application of sludge to county farmland, the Commissioners discussed the recommendations contained in the report.

Areas of discussion included:

Implementing a transportation fee (whether it would adequately cover costs);

Looking at advisability of Nutrient Management Plan and Consultant. (a consultant will be hired through Cooperative Extension) It was agreed that the last sentence in Recommendation No. 1 regarding costs associated with the consultant being covered through the transportation fee be deleted;

Looking at mechanism to keep record of land having sludge applied (having notice at Courthouse that additional information is available at Health Department and Soil Conservation Office;

Developing a county policy;

Conducting a public meeting with MDE present;

Monitoring;

Development permissive legislation for applicable items;

Permitting process.

After discussion Commissioner Jarboe moved, seconded by Commissioner Bailey, to direct Donna Sasscer, County Attorney Joe Densford, and the Agriculture/Seafood Commission to draft a permissive legislative proposal setting forth guidelines for application of sludge on county farmlands (for those items requiring legislation). Motion carried.

Commissioner Thompson moved, seconded by Commissioner Loffler, to forward correspondence to Maryland Department of Environment setting forth the concerns of the Agriculture/Seafood Commission including the monitoring issue. Motion carried.

In addition staff was directed to prepare correspondence to the Agriculture/Seafood Commission advising of the Commissioners' action on this matter.

COMMISSION FOR DISABLED RECOMMENDATIONS

As a follow up to the Commission for Disabled's presentation on July 7, the County Commissioners discussed the Commission's following recommendations:

That a statement be included in all legal notices informing the public of their rights and protection as afforded by the ADA (that the Commissioners do not discriminate and offering assistance for special needs).

That the Commissioners adopt a Grievance Policy formalizing the process whereby disabled individuals may have their concerns addressed.

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to accept the Commission for Disabled's recommendations as set forth above. Motion carried.

DEPARTMENT OF PLANNING AND ZONING

Present: Jon Grimm, Director
Peggy Childs, Recording Secretary
Joe Densford, County Attorney

PUBLIC HEARING - 1:00 P.M.

ZONE #86-1340 - ST. ANDREWS RUBBLE LANDFILL

Requesting rezoning from RL to RPD. The property contains 118.46 acres and is located on the south side of Maryland Route 4, approximately one mile east of Maryland Route 471; Tax Map 42, Block 3, Parcel 3.

Owner: Maryland Bank & Trust Company
Applicant: Attorney Phil Dorsey, for MD Bank & Trust
Agent: Norris, Gass & Ocker Engineering, Inc.

Also Present: Phil Dorsey, Esq.
Bill Loker, for MD Bank & Trust
John Norris, of NGO
Melva Dement Abell, Mary Doherty, and
other concerned area residents

Legal Ad published in The Enterprise on 7/1/92 & 7/8/92.
#A-1 - Certified Notices to contiguous property owners
#A-2 - Health Dept Memo regarding unsuitability for residential uses
#A-3 - Applicant's Response to 6/17/92 Staff Report

Mr. Grimm verified the property was posted as required and stated the *proposed use* of the property is not the subject of this public hearing, it is the rezoning issue only, based on a mistake in the original zoning. Attachment A of the Staff Report is a memorandum from the County Attorney providing legal standards to be applied to the testimony and evidence presented. The Planning Commission, following their public hearing on May 26, found that mistake had not been proven by the applicant, and recommended denial.

Commissioner Loffler stated for the record that there are people here today to speak to the proposed use of the rubble landfill, as the application name suggests. He advised that the Commissioners are not mandated to reach a decision today or within any set time period, they may call for whatever additional research they deem necessary.

Mr. Dorsey entered #A-1, #A-2, and #A-3, and located the subject parcel, which is directly adjacent to the County Landfill designated RL, and the parcel approved for expansion of the Landfill, designated RPD. He said the current Ordinance does not allow for sanitary landfills in the RL, except for governmental uses. He said the rezoning is only the first step in establishing a rubble landfill; if the rezoning is approved, a rubble landfill would require Board of Appeals approval for a conditional use and simultaneous approval by MDE to meet the environmental safeguards.

Since the rezoning application was made, Mr. Dorsey said it has come to his attention that, since the property is in the RL zone in a Development District, it is eligible to apply for a PUD-IP, under which Mr. Grimm states they seem to be supportable with the right safeguards. Therefore, applicant feels he should not be placed in a position of having to go forward with the rezoning petition, but, rather, that the proper forum is an application to the Planning Commission for PUD-IP, with the Commissioners' approval.

Mr. Dorsey charged that the County Solid Waste Ordinance has not been amended since 1974, and although a Solid Waste Plan was in the making, solid waste facilities were not formally addressed in the 1988 Comprehensive Plan. This was part of his mistake argument. He said the Secretary of MDE has recommended that the community, including government, the business community, and landowners, join in establishing a Solid Waste Facilities Plan, and asked that the applicant be allowed to participate in the preparation of the Plan, currently under review. The County has indicated in its report that the County Landfill has an expected life of only three years, and the expansion only another 7 years, for a total of 10 years' future life.

He concluded he doesn't think the applicant should properly be here before the Commissioners on a rezoning request, because he would have to prove mistake or change in the neighborhood, and made a special request to the Commissioners that the applicant be allowed to apply to the Planning Commission for a PUD-IP and proceed, at his peril, to try and gain approval of the rubble landfill application.

The Chair opened the hearing to public comment.

Melva Dement Abell, 362-A St. Andrews Church Road, and Mary Dement Doherty, 365 St. Andrews Church Road, spoke for area residents in opposition to the rezoning. Ms. Abell read from a prepared Response to Rezoning Request (#O-1), stating they are convinced that no error occurred in zoning the property RL, and they are very concerned about the possible future use of Parcel 3 within an RPD zone.

She stated the mere inability of the applicant to sell the property does not support a mistake finding and is not sufficient cause for rezoning of the property, as there has been no technical evidence presented that the site cannot be developed with permitted uses or permitted conditional uses allowed in the RL zone. In fact, in 1986 Maryland Bank & Trust submitted a concept plan for 92 one-acre residential units; now they state that the property is not suitable for residential.

Ms. Abell said the true historical use of the property has been agricultural and residential, and they cannot understand how the use of a maximum of 8-10 acres as an illegal dumping site, which ended in 1988, can deem the entire 118 acres unsuitable for any use other than a landfill. She pointed out the property is located in the 8th Election District Development District, where 50% of projected growth between now and the year 2000 will occur, and said the fact that the principal use of the parcel has been agricultural does not interfere with the intentions of a development district and the purpose they serve in the Comprehensive Plan. In fact, the Comprehensive Plan states that the natural resources and the generally rural character of the County shall be respected in the development districts.

In summary, Ms. Abell said they have dealt with other factors of the applicant's position in their previous submission, of which the Commissioners have a copy. She said they are confident the Commissioners will review that information and what they have presented today, in order to understand their position.

Submitted in support of Ms. Abell's statements were #O-2, Permitted and Conditional Uses in the RL AND RPD and Conditional Use unique to the RPD; and #O-3, a History of Parcel 3.

There being no further comments, the Chair closed the public comment portion and closed the public hearing at 1:40 p.m., reiterating there is no required time frame for the Commissioners to make a decision, that they will consider the information presented and make a determination of what action, if any, they wish to take, at a later date.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator

Commissioner Bailey moved, seconded by Commissioner Lancaster, to meet in Executive Session to discuss matters of personnel. Motion carried. The Session was held from 2:30 p.m. to 2:40 p.m.

ADJOURNMENT

The meeting adjourned at 2:40 p.m.

Minutes Approved by Board of
County Commissioners on 7/28/92

Judith A. Spalding
Recording Secretary