

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

December 8, 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 9:10 a.m.

**APPROVAL OF MINUTES**

Commissioner Jarboe moved, seconded by Commissioner Thompson, to approve the minutes of the Commissioners' meeting of Tuesday, December 1, 1992, including the Planning and Zoning portion. Motion carried.

**APPROVAL OF BILLS**

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

**COUNTY ADMINISTRATOR ITEMS**

**Present:** Edward V. Cox, County Administrator

**1) Governor's Office on Art and Sculpture**

The County Administrator presented correspondence nominating Michael Humphries, Director, St. Clements Island Museum, as the County's representative on the Governor's Office on Art and Sculpture to assist in the creation of a database of Maryland's outdoor public sculpture.

**Commissioner Jarboe moved, seconded by Commissioner Thompson, to sign and forward the letter nominating Michael Humphries as recommended. Motion carried.**

**2) Elms Property Lease (Re-signing)**

The County Administrator presented the referenced Elms Property Lease from the Department of Natural Resources, which had previously been signed by the Commissioners and DNR in 1990. County Administrator Cox advised that the lease had been misplaced in the state's system and had never been presented to the Board of Public Works for approval.

**Commissioner Jarboe moved, seconded by Commissioner Thompson, to approve and authorize Commissioner Loffler to re-sign the lease as presented.**

**3) Holiday Season Letter to County Employees**

The County Administrator presented correspondence addressed to County Employees wishing them a happy holiday season and requesting department heads to allow liberal leave on Christmas Eve.

The Commissioners agreed to sign and forward the letter.

(Commissioner Lancaster entered the meeting at 9:20 a.m.)



4) **Local Government Insurance Trust  
The Skydiving Center Legal Action**

The County Administrator presented correspondence addressed to the Local Government Insurance Trust regarding the Trust's responsibility with the defense of the County in The Skydiving Center legal action.

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

5) **Appointments  
Boards, Committees, Commissions**

Commissioner Bailey moved, seconded by Commissioner Thompson, and motion carried, to appoint the following individuals with terms as indicated:

<u>Electrical Examiners Board</u>	<u>Terms to Expire</u>
John Joseph Lynch	12/31/96
<u>Extended Day Care Planning Committee</u>	
Rhodesa Lee Milhan - Reappointment	12/31/95
<u>Mental Health Authority Board</u>	
Janet Cook - Reappointment	12/31/95

6) **Budget Amendments**

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

Department of Planning and Zoning

Transfer funds to purchase equipment (Literature Rack) (\$336)

Recreation and Parks

Salary and fringe to cover change from reclassification to promotion.

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

7) **Department of Public Works  
Public Works Agreement Extensions**

On behalf of the Director of Public Works, the County Administrator presented the following addenda for the Commissioners' review and consideration:

**Heard's Estates** - Between Gertz, Inc. and Board of County Commissioners of St. Mary's County extending the deadline for completion of improvements to February 1, 1994; addendum is backed by a Letter of Credit with Washington Savings Bank in the amount of \$45,000.

**Wildewood (Smoke Hill and Cottonwood Parkway)** - Between Paragon Builders, Inc. and St. Mary's County extending the deadline for completion of improvements to June 1, 1993; addendum is backed by a Letter of Credit with Maryland Bank and Trust Company in the amount of \$27,000.

**Valli View Estates, Section 1** - Between Vallandingham Associates and St. Mary's County extending the deadline for completion of improvements to December 1, 1993; addendum is backed by a Letter of Credit with First National Bank of St. Mary's in the amount of \$57,800.

**Hickory Hills, Phase 1** - Between Hickory Hills Townhomes Limited Partnership and Jimmy Richards and Sons Excavating St. Mary's County Commissioners extending the deadline for completion of improvements to December 1, 1993; addendum is backed by a Letter of Credit with Fidelity & Deposit Insurance Company in the amount of \$109,300.



**Miller Subdivision** - Between Ray Miller and Board of County Commissioners extending the deadline for completion of improvements to December 1, 1993; addendum is backed by a Letter of Credit with First National Bank of St. Mary's in the reduced amount of \$10,000.

**Chestnut Ridge Subdivision, Section 4** - Between Delmarva Properties, Inc. and St. Mary's County Commissioners extending the deadline for completion of improvements to December 1, 1993; addendum is backed by a Letter of Credit with Crestar Bank in the reduced amount of \$22,000.

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

#### **FISCAL YEAR 1994 BUDGET WORK SESSION**

Commissioner Loffler suggested the Board of County Commissioners and staff have a work session in early January on the development of the FY '94 budget. The County Administrator was directed to work with the Director of Finance to prepare for the work session and Commissioners were asked to present to the County Administrator special items they wished included.

#### **Metropolitan Commission Charlotte Hall Water System**

Present: Larry Petty, Director, Metropolitan Commission  
Charles Wade, Director of Finance  
George Allen Hayden, Mechanicsville Fire Department  
Charles Donaldson

Mr. Petty appeared before the Commissioners to discuss the installation of the water line at Charlotte Hall and the funding mechanism for the project. He indicated that conceptual approval had been given by the Charlotte Hall Veterans Home administrators to interconnect into its water system, which will eliminate the need for another storage tank in the area. The developer for the Charlotte Hall Center was required to build an elevated storage tank; however, those funds (\$100,000) will be reprogrammed and used toward the construction of the water line. The line is estimated to cost approximately \$400,000 leaving a shortfall of \$300,000.

Mr. Petty went on to explain the Metropolitan Commission's usual process for funding these projects--through bond issue which is paid back through connection charges when the project is driven by the need of the property owners. He pointed out that in this case the need for the water line is being driven by the designation in the Comprehensive Plan of the area as a growth area for commercial/industrial development and not by the needs of the current property owners. The funding source will not equal the estimated cost to install the line and Mr. Petty stated that the question is whether it would be fair to pass the debt to the people in the area who are not asking for the line.

Mr. Petty indicated that a public hearing will be held on the project and in response to a suggestion from Commissioner Jarboe, residents will be informed at that hearing that they will have an opportunity to connect to the water line.

Mr. Hayden and Mr. Donaldson expressed concern about fire protection in the Charlotte Hall area and indicated a need for the water line.

Discussion ensued as to the responsibility for payment of the debt, and Commissioner Loffler pointed out the need for the county to direct economic development in that area.

During discussion County Administrator Cox advised that there should be a study to relook at impact fees to handle current and future growth and to ensure public facilities are adequate.

**After discussion Commissioner Bailey moved, seconded by Commissioner Thompson, to approve advance funding for the Charlotte Hall water system and staff will develop recommendations for a funding mechanism. Motion carried.**



**DEPARTMENT OF PLANNING AND ZONING**

Present: Jon Grimm, Director  
Peggy Childs, Recording Secretary.

**DISCUSSION/DECISION - APPEAL**  
**FSUB #91-0423 - WOODMARK SUBDIVISION**

Requesting that density rights from parcels already subdivided and sold in this subdivision be recalculated and allowed to accrue to the remainder of this property for development purposes. The property contains 266 acres, is zoned RPD, and is located on the west side of the MD Route 234/Hurry Road intersection; Tax Map 23, Block 5, Parcel 185.

Present: Herb Redmond, DH Steffens  
Attorney Jim Kenney

Mr. Grimm distributed his memorandum of 12/2/92 with attached memoranda providing the chronology and policy on the processing of development plans in anticipation of the Comprehensive Plan adoption, including Robin Guyther's memorandum of 1/5/88 outlining information required for Preliminary Plans, stating that staff's position remains that the project was not grandfathered for one-acre zoning because a preliminary plan was not submitted and the subdivision was not listed on the groups approved for grandfathering by the Commissioners.

Commissioner Loffler noted that the Commissioners have turned down projects that had no road profiles or water system designed and pointed out that an approval of this request would require a change to the Commissioners' policy. Commissioner Bailey stated that there might have been mistakes made, but Section Four had already been perc'd for one-acre lots, and he is in favor of the request. Commissioner Jarboe agreed.

Commissioner Thompson stated she could not support the request because the three recorded sections were processed totally different from what was originally proposed on the concept plan, and if the Commissioners approve this on the basis of intent they will open themselves up to a lot of other "intents" on the part of other applicants. The project didn't meet the preliminary plan requirement, she said, and she could not see using any acreage in the recorded sections for density.

Commissioner Loffler noted for the record that the percs didn't matter because the other requirements were not met, and asked Mr. Redmond what makes this project different? Mr. Redmond reiterated his December 1st position that the project was in the process of being subdivided and they did not feel these things had to be done.

**Commissioner Thompson moved to accept staff's and the Planning Commission's recommendation and deny the request. Commissioner Loffler seconded for discussion purposes; however, after a brief discussion the motion was defeated by a vote of 3-2, and Commissioner Bailey moved that the request to allow density rights to accrue to Section Four be approved and that it be allowed to be developed at 23 lots. Commissioner Jarboe seconded.**

Commissioner Thompson stated she was very disappointed, that she really feels that both the Planning Commission's discussion and all the documentation supports denial, and that taking an applicant's "intent" and applying it to the rules will weaken the Comprehensive Plan and Zoning Ordinance in the future.

Commissioner Jarboe stated his reason for seconding the motion was that the Planning Commission didn't make a decision based on subdivision and grandfathering, and that's why the request is before the Commissioners. He noted that the project began in 1986 and said section four is probably the most valuable part of the parcel, making it viable to the applicant, and he thinks it is an exceptional case requiring special consideration.

Commissioner Loffler retorted that the reason staff brought this to the Commissioners' attention was because the grandfathering rules were created by the County Commissioners, and staff and the Planning Commission have said the project does not fit the rules, and the reason the request is before the Commissioners is to change the rules to fit the project, not to make an exception to the rules.

Mr. Grimm offered that the request was forwarded by the Planning Commission after a report and recommendation from a committee appointed by the Chairman which reject the density calculations as inappropriate to this or any other property in the County. He said he would not interpret the



Planning Commission's action as a failure to deny the request; they did not choose to support and have not recommended support or denied, but, with respect to the perc tests, the Planning Commission recommended in April 1990 that these types of projects not be grandfathered. They did acknowledge that it is the Commissioners' policy to uphold or deny.

Commissioner Thompson commented to Commissioner Jarboe that the property is in a very nice area, and applicant will certainly have the use of his property, as she doesn't envision any problem with selling those lots. Commissioner Jarboe replied that his reason given for seconding the motion was his opinion in making his decision.

The Chair called for the vote on Commissioner Bailey's motion, which passed by a vote of 3-2.

#### **WICOMICO SHORES AGREEMENT FOR WATER AND SEWER FACILITIES**

Present: Joseph Densford, County Attorney  
Phil Rollins, Director, Recreation and Parks

The referenced individuals appeared before the Commissioners to present a proposed Agreement among the Metropolitan Commission, Chaptico Water and Sewer Company, Wicomico, Inc. and the Board of County Commissioners of St. Mary's County regarding the transfer of ownership of the assets of Chaptico Water/Sewer Company and Wicomico, Inc. to the Metropolitan Commission. Mr. Densford advised that there are three easement agreements and there is minimal impact on the Wicomico Golf Course.

Mr. Densford requested the Commissioners' concurrence to grant the three easements to Wicomico, Inc. as set forth in Paragraph No. 7 of the Agreement

Commissioner Loffler questioned Paragraph No. 6 relative to the accuracy of the number of EDU's (equivalent dwelling units). Mr. Densford suggested that a representative of the Metropolitan Commission come before the Board to explain that portion of the Agreement.

After discussion the Commissioners requested a briefing of the document with the County Attorney and Metropolitan Commission at a future meeting.

#### **EXECUTIVE SESSION**

Commissioner Bailey moved, seconded by Commissioner Thompson, to meet in Executive Session to discuss matters of Personnel (consideration of appointments to Boards, Committees, Commissions) as provided under Article 24, Section 4-210(a)1; Property Acquisition (Higher Education Facility) as provided under Article 24, Section 4-210(a)11; and Litigation (The Skydiving Center) as provided under Section 4-210(a)8. Motion carried.

##### **Personnel**

Present: All Commissioners  
Edward V. Cox, County Administrator  
Judith A. Spalding, Recording Secretary

Authority: Article 24, Section 4-210(a)1, Md. Annotated Code

Topic: Consideration of Appointments to Boards, Committees and Commissions.

Time Held: 11:10 a.m. to 11:32 a.m.

Action Taken: Commissioners directed staff to contact nominees to determine if they would accept appointment and to prepare appointment letters for the Commissioners' signatures for 12/15. The Commissioners further requested that if an individual declines or is unable to be reached after a length of time that they be so informed.



Property Acquisition

Present: All Commissioners  
Edward V. Cox, County Administrator  
Joseph Mitchell, Director, DECD  
Alek Loker, Technology Council  
Larry Schadegg, "  
Charles Wade, Director of Finance  
Ken Carruthers, MGT (consultant)  
Judith Spalding, Recording Secretary

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

Topic: Higher Education Facility site

Time Held: 11:35 a.m. - 2:30 p.m.

(Commissioner Loffler left the meeting at 11:45 a.m. stating he would not participate in this matter because of a business associate's involvement.)

Action Taken: Reviewed the proposed sites with evaluation criteria. The commissioners requested recommendations from the full Technology Council and will revisit the item at next week's meeting.

Litigation

Present: All Commissioners  
Edward V. Cox, County Administrator  
Joseph Densford, County Attorney  
Dan Ichniowski, Director, Public Works  
Charles Wade, Director of Finance  
"Rocky" Sorrel, Attorney, Hogan & Hartson  
George Haliscak, Chairman, Airport Commission  
Chuck Hines, "  
Glen Gardiner, "  
Dave Seeman, "  
Dick Wilson, "  
Judith Spalding, Recording Secretary

Authority: Article 24, Section 4-210(a)8, Md. Annotated Code

Topic: Pending Litigation Pertaining to The Skydiving Center

Time Held: 2:35 p.m. to 4:25 p.m.

(County Administrator Cox left the meeting at 3:15 p.m.  
Commissioner Jarboe left the meeting at 3:30 p.m.  
Public Works Director Ichniowski left the meeting at 3:40 p.m.)

Action Taken: Reviewed status and future course of pending litigation with The Skydiving Center.

**ADJOURNMENT**

The meeting adjourned at 4:25 p.m.

Minutes Approved by Board of  
County Commissioners on 12/15/92

Judith A. Spalding  
Recording Secretary