

BOARD OF COUNTY COMMISSIONERS' MEETING

October 20-21, 1976

Wednesday, October 20, 1976

Present: Commissioner James M. McKay, President  
Commissioner Ford L. Dean  
Commissioner J. Patrick Jarboe  
Commissioner Larry Millison  
Commissioner John K. Parlett  
Edward V. Cox, County Administrator  
Judith A. Mullins, Recording Secretary

The meeting came to order at 8:45 a.m.

READING AND APPROVAL OF MINUTES

The minutes of October 13-14, 1976 were read and corrected. Commissioner Jarboe made a motion to approve the minutes as corrected, seconded by Commissioner Dean. All Commissioners voted in favor.

ENCUMBRANCE VOUCHERS

Present: Harris Sterling, Director of Finance

Mr. Sterling presented the encumbrance vouchers for the Commissioners' review and approval. Commissioner Parlett made a motion to approve payment of the bills as submitted, seconded by Commissioner Dean. All Commissioners voted in favor.

PUBLIC SCHOOL CONSTRUCTION PROGRAM

The County Administrator presented the Board of Education's Capital Improvement Program, which had to be revised because of the limited funds coming to St. Mary's County from the State, for the Commissioners' review. The Commissioners requested that representatives of the Board of Education appear before the Commissioners next week to review the program.

PUBLIC SCHOOL CONSTRUCTION PROGRAM - CHANGE OF STATE POLICY

The County Administrator reported briefly concerning the Maryland Association of Counties' meeting in Annapolis on October 13, 1976, at which were presented various proposals for new formulas to provide state funds for public school construction. The position taken by the MACO Board of Directors to be refined by the legislative committee is that school construction funds should not be disbursed on a per-pupil basis, but rather be on an established-needs basis.

RESOLUTION NO. 76-47  
CENTER GARDENS TAX ABATEMENT  
(ST. MARY'S GARDEN APARTMENTS)

Commissioner Jarboe made a motion to adopt Resolution No. 76-47 Center Gardens Tax Abatement (St. Mary's Garden Apartments), seconded by Commissioner Dean. All Commissioners voted in favor.

RESOLUTION NO. 76-44  
PLAN OF AFFIRMATIVE ACTION

Commissioner Dean made a motion that the Commissioners adopt Resolution No. 76-44 - Plan of Affirmative Action, seconded by Commissioner Parlett. All Commissioners voted in favor.

FUNDAMENTALS OF MANAGEMENT SEMINAR

The County Administrator advised that he had been accepted to attend a Fundamentals of Management Seminar for five consecutive Fridays, beginning next week, in Annapolis, sponsored by Management Development Center of Maryland. The only cost to the County would be the loss of the County Administrator's time.

The Commissioners gave their concurrence for Mr. Cox's attendance at the seminar.

STANDARD SERVICE AGREEMENT  
AUTOMATIC DATA PROCESSING OF WASHINGTON, D. C.

The County Administrator presented the above-referenced Agreement and stated that the Director of Finance, Mr. Sterling, recommended the Commissioners' approval of same.

Commissioner Jarboe made a motion to authorize Commissioner President McKay to sign said Agreement, seconded by Commissioner Dean. All Commissioners voted in favor.

LETTER TO WASHINGTON DEVELOPMENT CORPORATION  
SPRING VALLEY SUBDIVISION

Commissioner Jarboe made a motion to forward the letter addressed to Washington Development Corporation setting forth the County's position with regard to Rosewood Drive in Spring Valley subdivision, seconded by Commissioner Parlett. All Commissioners voted in favor of this motion.

LETTER OF AGREEMENT  
MARYLAND HISTORIC SITES INVENTORY - VOLUME I

The County Administrator presented the Letter of Agreement between The Maryland Historic Trust and the County Commissioners of St. Mary's County for the provision of funds for the republication of Volume I of the Maryland Historic Sites Inventory.

Commissioner Jarboe made a motion to authorize Commissioner President McKay to sign said Agreement, seconded by Commissioner Dean. All Commissioners voted in favor.

RAILROAD RIGHT-OF-WAY USE - BUDDY NORRIS

With regard to the request by Buddy Norris for use of the railroad right-of-way in Hughesville, the County Administrator stated that the County Engineer has recommended in a memorandum dated October 13, 1976 that the request be denied. The Commissioners indicated that they would discuss this further with the County Engineer.

QUEENTREE LANDING  
PUBLIC WORKS AGREEMENT AND BOND

The County Engineer's Office submitted the Public Works Agreement, with attached bond, which has been approved by the County Attorney and recommended for approval by the County Engineer.

Commissioner Dean made a motion to enter into said Agreement between St. Mary's Land Development Corporation and St. Mary's County, Maryland, said Agreement guaranteeing completion of all required public improvements in Queen Tree Subdivision, and further to accept the surety bond, seconded by Commissioner Jarboe. All Commissioners voted in favor.

PUBLIC WORKS EMPLOYMENT ACT OF 1976  
STATEMENT OF ASSURANCES

The County Administrator presented the Statement of Assurances which must be filed with the Office of Revenue Sharing in order to qualify for payments authorized by the Public Works Employment Act of 1976.

Commissioner Jarboe made a motion to authorize Commissioner President McKay to sign said Statement of Assurances, seconded by Commissioner Parlett. All Commissioners voted in favor.

CODIFICATION PROCESS

The County Administrator stated that he and the County Attorney recommend to the Commissioners initiating the contract with General Code Publishing Corporation to begin the revision of the Public Local Laws, applicable State laws and resolutions and ordinances. In addition, Mr. Cox recommended that the Commissioners appoint a committee that would be responsible for working with General Code Publishing Corporation, reviewing with them the results of their analysis of our Code situation. The Committee would then submit recommendations to the Commissioners, who would in turn give their endorsement. These revisions would then be submitted to the 1978 Legislative Session and at that time the Code would be republished. This project will take approximately 13 to 14 months and would cost the County \$7,900 for a complete revision. \$5,000 has been budgeted for this purpose and would therefore necessitate a \$2,900 transfer from the Contingency Account.

Commissioner Dean made a motion to accept the recommendations of the County Administrator and County Attorney and enter into a contract with General Code Publishing Corporation for the codification of local public laws, applicable state laws, ordinances and resolutions, and that the Commissioners appoint a Codification Committee, seconded by Commissioner Jarboe. All Commissioners voted in favor.

Commissioner Dean further moved to approve a Contingency Account transfer in the amount of \$2,900, seconded by Commissioner Parlett. All Commissioners voted in favor.

The Commissioners agreed to accept recommendations from the County Attorney and County Administrator for appointments to the Committee.

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Present: Jerry McKinney, Director, Tri-County Council

Mr. McKinney presented the Notification of Intent to Apply for Federal Aid for the St. Mary's County Courthouse and Leonard Hall Governmental Office Complex construction projects under the Local Public Works Capital Development and Investment Program.

Commissioner Dean made a motion to authorize Commissioner President McKay to sign said Notification of Intent to Apply for Federal Aid, seconded by Commissioner Parlett. All Commissioners voted in favor.

TOURIST INFORMATION CENTER

Present: Nick Smith, Director, Chamber of Commerce

Mr. Smith appeared before the Commissioners to request that the Tourist Information Center be closed for the season and that the signs be taken down and stored at the Center, and that with the cooperation of St. Mary's City Commission and other organizations, that when groups of visitors come into the County, Mr. Smith would meet them at the Center to distribute literature on the County. The Commissioners gave their concurrence.

BURGLAR ALARM SYSTEM AND FIRE ALARM SYSTEM  
FOR COUNTY BUILDINGS

Present: Paul Raley, Director, Purchasing and Logistics

Mr. Raley presented the bid talley sheets for the purchase and installation of burglar alarm systems and smoke detector systems for various County office buildings.

After discussion, Commissioner Dean made a motion to award the contract for the burglar alarm system for Leonard Hall Building No. 4 to Charles Cox in the amount of \$400 for installation charge and an annual service charge of \$306, and that the contract will provide protection for all exterior windows, exterior doors, and two interior doors, seconded by Commissioner Jarboe. All Commissioners voted in favor.

With regard to the smoke detectors, the Commissioners requested Mr. Raley to determine whether Southern Maryland Alarm is able to meet the specifications and return to the Commissioners.

PROCLAMATION NO. 76-46  
UNITED WAY OF ST. MARY'S COUNTY

Present: Mr. Edward Curley  
Mrs. Kathryn Curley

The Commissioners presented the above-referenced Proclamation establishing October 27, 1976 as the kick-off date for this year's United Way Campaign and encouraging all citizens to participate in every way possible toward making successful the 1976 United Way Campaign.

Mr. & Mrs. Curley requested that the Commissioners ask the Board of Education to give reconsideration in appointing a representative from the Board of Education for the United Way Campaign. The Commissioners stated that there seemed to be a misunderstanding and that they would discuss this matter with representatives of the Board of Education.

PRESS CONFERENCE

Present: Jack Kershaw, Enterprise  
Sunny Schust, "  
Rick Boyd, "  
Eric Bromley, WPTX  
Dick Myers, WKIK  
Patty Muchow, Guardian  
Leslie Walker, "  
Mike Kleinback, Beacon

The regular semi-monthly Press Conference was held at this time. A tape of the Conference is on file in the Commissioners' Office.

The meeting recessed at 12:40 p.m.

INTERVIEWS WITH APPLICANTS FOR PLANNER

At this time the Commissioners agreed to meet in Executive Session in order to conduct interviews with two applicants for Planner. The Executive Session was held from 12:45 p.m. to 1:30 p.m.

Thursday, October 21, 1976

Present: Commissioner James M. McKay, President  
Commissioner Ford L. Dean  
Commissioner J. Patrick Jarboe  
Commissioner Larry Millison  
Commissioner John K. Parlett  
Edward V. Cox, County Administrator  
Judith A. Mullins, Recording Secretary

The meeting reconvened at 8:45 a.m.

DEVELOPMENT OF A GROWTH POLICY FOR THE COUNTY

Present: Joseph M. Gough, Chairman, Planning Commission  
Richard Platt, Director, Land Use and Development

In response to a request from the County Commissioners that the Planning Commission address the problem of growth in the County, particularly in the Fifth District, Mr. Gough appeared before the Commissioners and presented a letter dated October 20. He stated that two major areas of concern are in need of immediate attention: (1) The preservation of agricultural lands, and (2) the control of growth in the Fifth District.

Commissioner Jarboe inquired of Mr. Gough if this letter was from the Planning Commission, to which Mr. Gough replied that it represented the thoughts of the Office of Land Use and Development and himself.

After Mr. Gough's presentation, the Commissioners requested the Planning Commission's input on this matter, and if they had any additional comments.

PROPOSED CHANGES TO ARTICLE 18 - NON-CONFORMING USES

Present: Joseph Gough, Chairman, Planning Commission  
Richard Platt, Director, Land Use and Development

Mr. Gough presented a memorandum dated October 20, 1976 from the Planning Commission regarding proposed changes to Article 18 of the St. Mary's County Zoning Ordinance and setting forth comments on the proposed changes of this article. Said memorandum stated that the proposed changes should be modified to allow a reasonable expansion of a non-conforming structure without requiring the approval of the Board of Appeals. A copy of the memorandum is on file in the Commissioners' Office.

MEETING WITH BOARD OF APPEALS

Present: Richard Platt, Director, Land Use and Development  
Edwin Peregoy, Chairman, Board of Appeals  
John Benson, Board of Appeals  
Mr. Fitzgerald, Board of Appeals  
Mr. Ellis, " " "  
Mr. Bean, " " "  
Charles Mander, Board of Appeals Attorney  
Ernie Bell, County Attorney  
Joseph Densford, Attorney

At the request of the Board of County Commissioners, the above persons appeared before the Commissioners to discuss the issues generally related to zoning and the method in which the two Boards could work together to resolve zoning problems as they arise.

Commissioner Jarboe outlined suggested areas to be discussed:

- (1) Protocol and procedure;
- (2) Significance of Board of Appeals' decisions with regard to precedence;
- (3) Who would represent the County for Mr. Platt in the Try-Me Tavern case;
- (4) General philosophy of zoning in St. Mary's County;
- (5) Team approach.

Mr. Mander advised the Commissioners that the rules and regulations for the Board of Appeals are in the process of being drafted, which would result in more orderly proceedings. In addition, Mr. Mander stated that in involved cases perhaps the Board of Appeals should not make a decision on those cases on the same evening they are heard.

The County Attorney, Ernie Bell, stressed the importance of consistency in dealing and approaching all cases, and that counsel should be consulted prior to a decision being made.

Commissioner Dean discussed the basic philosophy of zoning in that it must be administered in a consistent and reasonable manner and further discussed the relationship between the Zoning Administrator and the Board of Appeals and whether the support for the Board of Appeals should come from some other agency.

With regard to the update of the Zoning Ordinance, Commissioner Dean requested that Mr. Platt provide the members of the



Board of Appeals with a copy of the draft of the update of the Zoning Ordinance in order for the members to make input to these changes.

In closing, Mr. Peregoy requested consideration by the Board of County Commissioners to increase the Board of Appeals' salary in that expenses have increased.

MACO PLANNING OFFICE WORKSHOP

Present: Richard Platt, Director, Land Use and Development

Mr. Platt requested permission from the Commissioners to attend the quarterly workshop of the MACO Planning Office scheduled for November 10 to discuss water and sewer planning, adequate public facilities, etc. Cost of registration is \$5.00. The Commissioners granted Mr. Platt's request.

COASTAL ZONE MANAGEMENT PROGRAM

Present: Richard Platt, Director, Land Use and Development

Mr. Platt stated that the Coastal Zone Management Program under the Department of Natural Resources is desirous of giving the County some assistance and proposes to hire a regional coordinator for the tri-county area. Mr. Platt introduced Mr. Michael Rubala of Mechanicsville and Mr. Vivian Marsh of Bryantown who will be assuming this position. Mr. Platt explained that their duties are outlined in a job description, and they will be assisting the County in the Coastal Zone Management Program.

In closing Mr. Platt requested that the Commissioners give consideration to reimburse Mr. Marsh and Mr. Rubala for travel expenses incurred.

PRINTING OF ZONING ORDINANCE AND  
COMPREHENSIVE LAND USE PLAN

Present: Richard Platt, Director, Land Use and Development

Mr. Platt recommended to the Commissioners that the printing of the Zoning Ordinance and Comprehensive Land Use Plan be advertised for bids at this time. Cost will be approximately \$3,500. He further stated that it would also be necessary to get a new base map for insertion in the back of the Ordinance, which would cost approximately \$2,500.

The Commissioners directed Mr. Platt to solicit proposals, both separately and as a total package, for the printing of the Zoning Ordinance, Comprehensive Land Use Plan and the base maps.

LEGAL REPRESENTATION FOR ZONING ADMINISTRATOR

The matter of legal representation for the Zoning Administrator in the appeal of the Try-Me Tavern case was discussed with Mr. Platt, and Mr. Platt indicated that the attorneys mentioned in his letter of October 19, 1976 to the Commissioners were all acceptable.

BIDS ON INVESTMENTS

Present: Harris Sterling, Director of Finance

Mr. Sterling stated that bids were opened on investments as follows:

<u>AMOUNT</u>	<u>TERM</u>	<u>MD. NAT'L.</u>	<u>FIRST NAT'L.</u>	<u>MD. BANK &amp; TRUST</u>
\$580,000	93 days	5%	4.675%	4.935%
\$350,000	122 days	5%	5.175%	5.165%

Mr. Sterling recommended awarding the bids as follows:

- \$580,000 for 93 days to Maryland National Bank Savings Account at 5% Compounded Daily
- \$305,000 for 122 days to First National Bank of St. Mary's Certificate of Deposit at 5.175%.

Commissioner Jarboe made a motion to accept Mr. Sterling's recommendation, seconded by Commissioner Millison. All Commissioners voted in favor.

OVERTIME POLICY

At this time the Commissioners reviewed Policy Memorandum 2-76, dated October 13, 1976 pertaining to overtime.

After discussion, Commissioner Jarboe made a motion that the Commissioners adopt Policy Memorandum 2-76 as the County's policy on overtime with the understanding that it would have immediate implementation for departments with money budgeted and would be implemented as of July 1, 1977 for other departments if at that point they have overtime money budgeted, seconded by Commissioner Dean. All Commissioners voted in favor.

METROPOLITAN COMMISSION - BONDING

Commissioner Parlett reported that at the last Metropolitan Commission meeting, it was stated that they have been working with Ed Clark, Bonding Counsel, in preparation to going to bonding market. Mr. Clark will be going to New York and would like to take some of the Commissioners with him in order to get some answers on bonding. Mr. Cox, County Administrator, stated that Mr. Marlay of the Metropolitan Commission, will be contacting him to let him know when the trip will be and with additional details.

TRI-COUNTY YOUTH SERVICES BUREAU BOARD

Commissioner Jarboe made a motion to appoint Rev. Charles R. C. Daugherty to the Tri-County Youth Services Bureau Board, seconded by Commissioner Millison. All Commissioners voted in favor.

(Commissioner Millison left the meeting at this time.)

REZONING DECISION

CASE NO. 76-9

EASY WASH, INC.

The Commissioners conducted a public hearing on September 29, 1976 on the application of Easy Wash, Inc., Benjamin Burroughs, Jr., President, Case No. 76-9, to have parcels of land containing approximately 52 acres located on the east side of Maryland Route 5 in Charlotte Hall, Fifth Election District, rezoned from C-1, neighborhood commercial, to C-2, highway commercial.

Commissioner Dean presented the following for the Commissioners' consideration in this rezoning application:

"In conducting the finding of fact relative to this rezoning application, the Board of County Commissioners notes that the subject property is presently zoned C-1. This means that the commercial nature of the property is already established. The applicant could, therefore, develop the subject property as a shopping center under the existing zoning classification, being limited to the permitted uses allowed in the C-1 district.

"The net effect of changing the subject property to C-2 would not be the creation of commercial property from agricultural-residential property, but rather the net effect would be the types and number of permitted commercial uses would be increased to those uses which are permitted in the C-2 classification as opposed to those permitted in the C-1 classification.

"The question in this rezoning case, therefore, becomes whether or not the facts in this case justify the change in classification from C-1 to C-2 as requested.

"The following facts are deemed to be pertinent to this application:

"1. Over 300 houses have been constructed within the Fifth Election District since the adoption of the Zoning Ordinance on May 28, 1974. If multiplied by four (4) persons per house, this would indicate a population increase of 1,200 persons. Though this factor, alone, may not be sufficient to conclude a significant change in the neighborhood; nevertheless, it is obvious that there has been a significant increase in population in the Fifth District.

"2. Examination of the County Zoning Map reveals a rather small amount of C-2 zoned property in the Fifth Election District, mostly in a few rather small parcels.

"3. The subject property is of sufficient size (approximately 52 acres) which would lend itself to be developed into a large regional shopping center which could provide the full range of commercial services to the residents of the surrounding area for quite some distance. The development of such a regional type shopping center with well designed and limited entrances onto Route 5 would be compatible with a stated goal of the County Comprehensive Land Use Plan to discourage the strip type of development which could occur if many smaller parcels were developed commercially adjacent to and along side Route 5.

"4. The subject property is so situated as to not be incompatible with the existing development of adjacent agricultural/residential property.

"In consideration of the above and taking into account the recommendation and reasoning presented by the Planning Commission, it is the conclusion of the Board of County Commissioners that this rezoning application be approved. The Board of County Commissioners would also like to state that it is cognizant of the fact that the location of the subject property is at the entrance of the County along its major access route. The Board concurs with the stated intent of the Planning Commission to require of the applicant at the development stage an overall development plan which will take into account such considerations as aesthetic appearance and limited and well-designed traffic entrances and exits."

Commissioner Dean made a motion that the above statement be the Board's justification in granting this rezoning request, seconded by Commissioner Jarboe. All Commissioners present voted in favor.

(Commissioner McKay left the meeting at this time.)

REZONING DECISION  
CASE NO. 76-5  
JEREMY GILLAM - OLIVER GUYTHER

The Board of County Commissioners conducted a Public Hearing on September 8, 1976 on the application of Jeremy J. H. Gillam and Oliver R. Guyther, Case No. 76-5, to have a parcel of land containing approximately 29 acres located on Maryland Route 5, approximately 1/4 mile north of Oaks Cooksey Swamp Road, Fifth Election District, rezoned from AR-2, agricultural-residential, to C-2, highway commercial.

Commissioner Jarboe made a motion that the rezoning in this case of 29 acres from AR-2 to C-2 be denied for the following reasons:

1. No demonstrated mistake in the original zoning;
2. Insufficient evidence of change in the neighborhood. While there is a demonstrated increase in the population in the Fifth District, there is no demonstration of the need for further commercial land to service the increased population present or projected. There is currently already a large amount of land in this area, and the Fifth District, which is zoned commercial and undeveloped.
3. The applicant's intentions for this proposal are unclear. He asks for highway commercial (C-2) and narrates an intention for a neighborhood shopping center (C-1). If he intends a highway oriented or regional shopping center, the area (29 acres) is too small. If he intends a true neighborhood shopping center, the location is poor; because, as indicated by the County Planner, the project is "not centrally planned regarding its trade area or neighborhoods". In other words, it is not centrally located among existing neighborhoods, and is not large enough to be considered a regional shopping center.
4. Compatibility of Land with Existing and Proposed Development - The land is presently zoned AR-2. The area is generally residential in nature, and residential development is presently a compatible use. The parcel of property is actually a strip along the major thoroughfare of Route 5. The land has insufficient depth and incompatible contour to allow adequate buffering from the adjacent residential neighborhood. The adjoining residential area of Indian Creek and North Indian Creek, and the area proposed for rezoning, are both owned by the same developer. The buyers of the homes in the residential areas bought with the knowledge that the surrounding environs were protected by zoning. To betray these home buyers by rezoning to a commercial use without demonstration of an over-riding community need would be inconsistent with good zoning practice and the purpose of comprehensive zoning.

Commissioner Dean seconded the motion. All Commissioners present voted in favor.

(Commissioners McKay and Millison returned to the meeting.)

INTERVIEWS WITH APPLICANTS FOR PLANNER

The Commissioners agreed to meet in Executive Session in order to conduct interviews with applicants for the position of Planner. The Session was held from 12:20 p.m. to 1:20 p.m.

The meeting adjourned at 1:20 p.m.

Approved by,

  
\_\_\_\_\_  
James M. McKay  
President