

RESOLUTION

WHEREAS on March 10, 1992 the Board of County Commissioners adopted Resolution No. W/S 92-01 amending the comprehensive water and sewerage plan to reclassify the sewer service categories for Airdele Road, Tall Timber/South Potomac Shores, and St. George's Island; and

WHEREAS said Resolution No. W/S 92-01 limited new sewer facilities on St. George's Island to 219 equivalent dwelling units (EDU's) as described in the attachment to said Resolution No. W/S 92-01; and

WHEREAS on March 10, 1992 the Board of County Commissioners entered into an agreement with the St. Mary's County Metropolitan Commission and the St. George's Island Improvement Association restricting service to St. George's Island to 219 EDU's; and

WHEREAS, the Board of County Commissioners, with the concurrence of the St. George's Island Improvement Association, subsequently adopted Resolution No. W/S 93-02 modifying the EDU sewer allocation for St. George's Island to 220 EDU's; and Resolution No. W/S 94-01 modifying the EDU sewer allocation for St. George's Island to 224 EDU's; and Resolution No. W/S 94-04 modifying the EDU sewer allocation for St. George's Island to 229 EDU's; and Resolution No. W/S 95-02 modifying the EDU sewer allocation for St. George's Island to 230 EDU's; and Resolution No. W/S 99-01 modifying the EDU sewer allocation for St. George's Island to 232 EDU's; and Resolution No. W/S 00-01(A) modifying the EDU sewer allocation for St. George's Island to 237 EDU's; and

WHEREAS, the Board of County Commissioners, with the concurrence of the St. George's Island Improvement Association and the Metropolitan Commission has determined that the allocation of one (1) EDU for Judy Moore for property described in EWA 1554/292 (Parcel 57 of Tax Map 66 in the ninth election district of St. Mary's County, Maryland) should have been included in Resolution No. W/S 92-01, but was inadvertently overlooked; and

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners hereby amends Resolution No. W/S 92-01 pursuant to the Agreement Restricting Service to St. George's Island between the Board of County Commissioners and the St. George's Island Improvement Association to provide for one (1) EDU allocation to the property described as Tax Map 66, Parcel 57 the same being 23,275 square feet more or less, bringing the total for St. George's Island to 238 EDU's.

BE IT FURTHER RESOLVED, by the Board of County Commissioners for St. Mary's County, Maryland that the St. Mary's County Comprehensive Water and Sewer Plan be effective upon the date written below.

BE IT FURTHER RESOLVED, by the Board of County Commissioners for St. Mary's County, Maryland that the foregoing recitals are adopted as if fully rewritten herein.

Voting Aye: all  
Voting Nay: —  
Date of Adoption: 12/17/02  
Effective Date: 12/17/02

Abstaining: —

RECORDING FEE 0.00  
TOTAL 0.00  
RESOLUTION NO. W/S 02-50  
EWA FILE 01442703  
Dec 23, 2002 02:20 PM

BOARD OF COUNTY COMMISSIONERS  
OF ST. MARY'S COUNTY, MARYLAND

Thomas F. McKay  
Thomas F. McKay, President

Kenneth R. Dement  
Kenneth R. Dement, Commissioner

Lawrence D. Jarboe  
Lawrence D. Jarboe, Commissioner

Thomas A. Mattingly, Jr.  
Thomas A. Mattingly, Jr., Commissioner

Daniel H. Raley  
Daniel H. Raley, Commissioner

Attest:  
Alfred A. Lacer  
Alfred A. Lacer,  
County Administrator

Resolution approved as to legal form and sufficiency:

John B. Norris, III  
John B. Norris, III  
County Attorney

RESOLUTION

WHEREAS, pursuant to Sections 109-1 and 109-2 of Article 19 of the Code of Public Local Laws of Maryland, the County Commissioners for St. Mary's County, Maryland, is authorized to accept new subdivision streets in accordance with the applicable provisions of the County Subdivision Regulations; and

WHEREAS, the Director of the St. Mary's County Department of Public Works and Transportation has advised the Board of County Commissioners for St. Mary's County, Maryland, that all work has been satisfactorily completed in accordance with the County Subdivision Regulations, Public Works Agreement dated July 31, 1997, and Record Plat recorded at Liber EWA 44, Folio 71, for Harpers Court, County Route 31330, and

WHEREAS, Harper's Corner Estates Subdivision is subject to the requirements of the St. Mary's County Subdivision Ordinance (1978) pursuant to Section 24 of the St. Mary's County Subdivision Ordinance (2002).

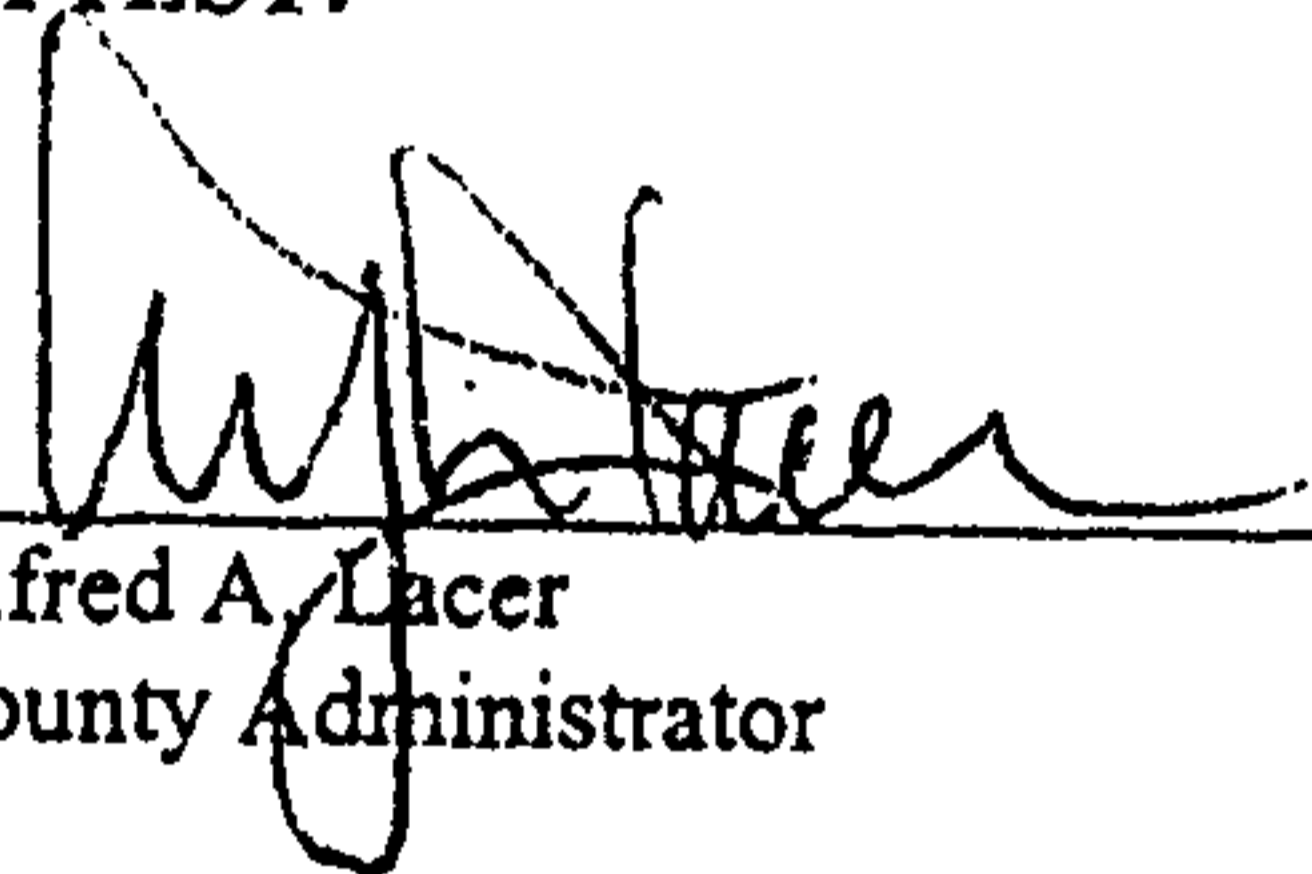
NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners for St. Mary's County, Maryland; finding that Harpers Court, County Route 31330, located in the Harper's Corner Estates Subdivision, Fifth (5<sup>th</sup>) Election District, St. Mary's County, Maryland (Plat Reference: Liber EWA 44, Folio 71) meets the applicable requirements of the St. Mary's County Subdivision Ordinance (1978), as amended, and hereby accepts Harpers Court, County Route 31330, into the County's Highway Maintenance System.

Those voting aye: all  
Those voting nay: \_\_\_\_\_  
Those abstaining or absent: \_\_\_\_\_


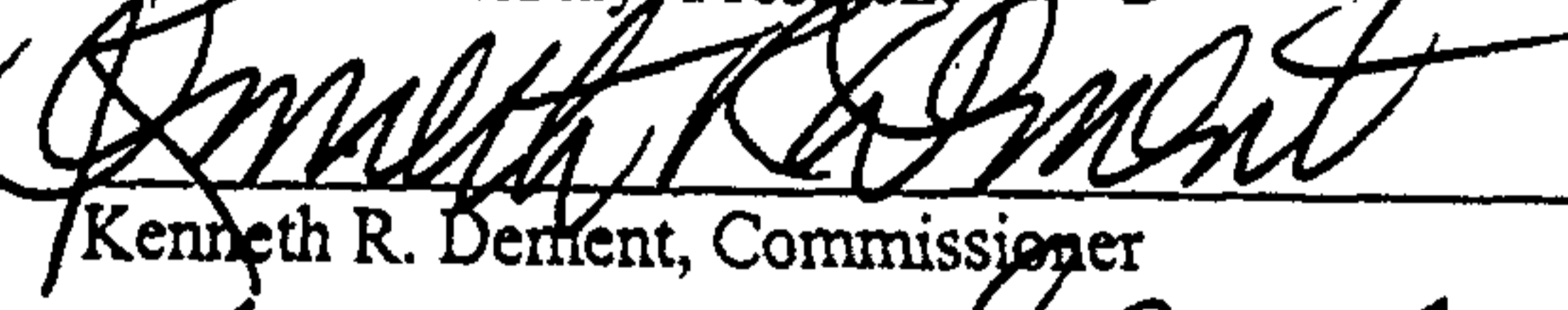
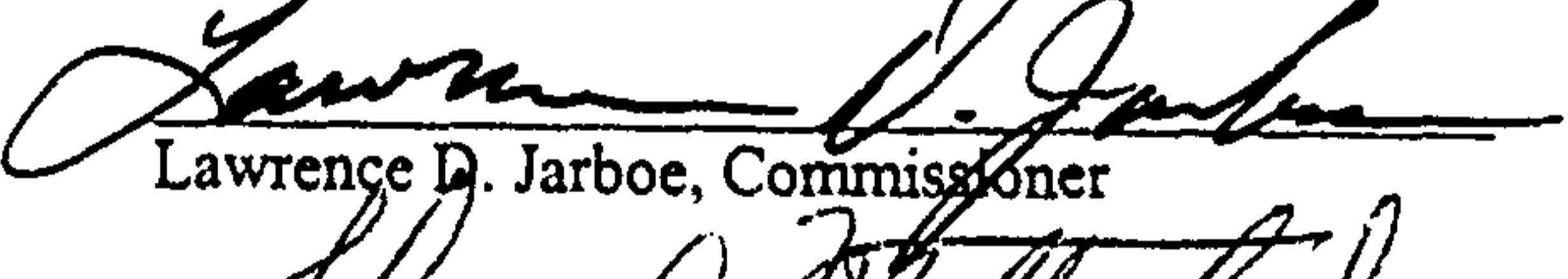
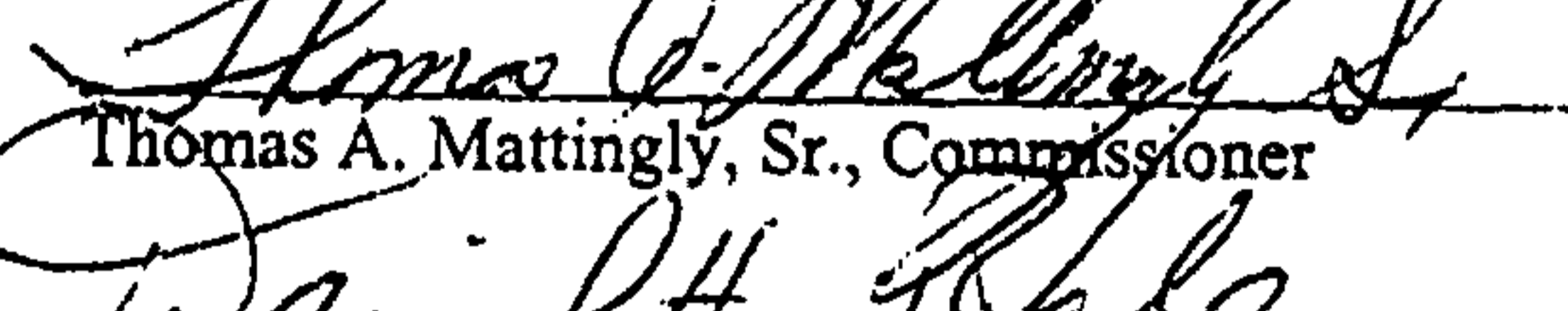
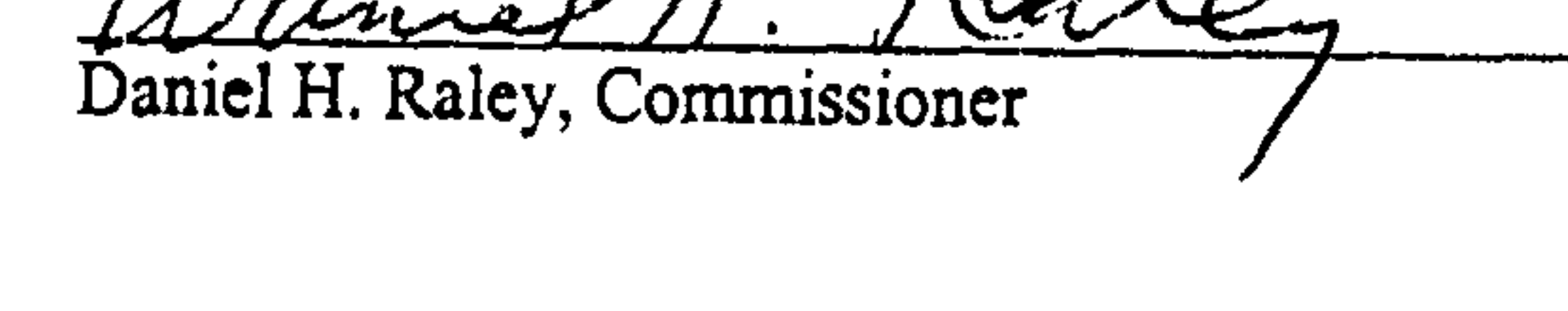
Date of Adoption: 1/14/03

Effective Date: 1/14/03

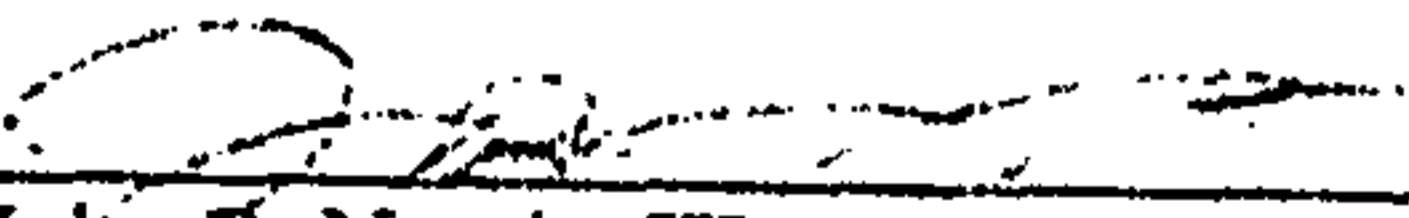
ATTEST:

  
Alfred A. Lacer  
County Administrator

BOARD OF COUNTY COMMISSIONERS FOR  
ST. MARY'S COUNTY, MARYLAND

  
Thomas F. McKay, President  
  
Kenneth R. Dement, Commissioner  
  
Lawrence D. Jarboe, Commissioner  
  
Thomas A. Mattingly, Sr., Commissioner  
  
Daniel H. Raley, Commissioner

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
John B. Norris, III  
County Attorney

RECORDING FEE 0.00  
TOTAL 0.00  
Res#5102 Rcpt#999999  
EWA CGS 3.142354  
Jan 24, 2003 09:37 am

NO.: 03  
02-112  
SUBJECT: Harpers Court  
Speed Limit  
Harper's Corner Estates Subdivision

LIBERO 024 PAGE 03

RESOLUTION

WHEREAS, pursuant to the authority granted under Section 10-I of Article 25 of the Maryland Annotated Code and Section 25-102 (a) (10) and Section 21-803 of the Maryland Annotated Code, Transportation Article, the County Commissioners for St. Mary's County, Maryland, may alter the speed upon a public road within the County; and

WHEREAS, the Director of the St. Mary's County Department of Public Works and Transportation has advised that the maximum speed limit set forth in Title 21 of the Transportation Article of the Maryland Annotated Code for Harpers Court, County Route 31330, located in the Harper's Corner Estates Subdivision, Fifth (5<sup>th</sup>) Election District, St. Mary's County, Maryland, as per Record Plat recorded at EWA 44, Page 71, is greater than reasonable or safe under existing conditions of road design, motor vehicle traffic and pedestrian safety; and

WHEREAS, the Director of the St. Mary's County Department of Public Works and Transportation has advised that 25 miles per hour is a reasonable and safe maximum speed for Harpers Court, County Route 31330.

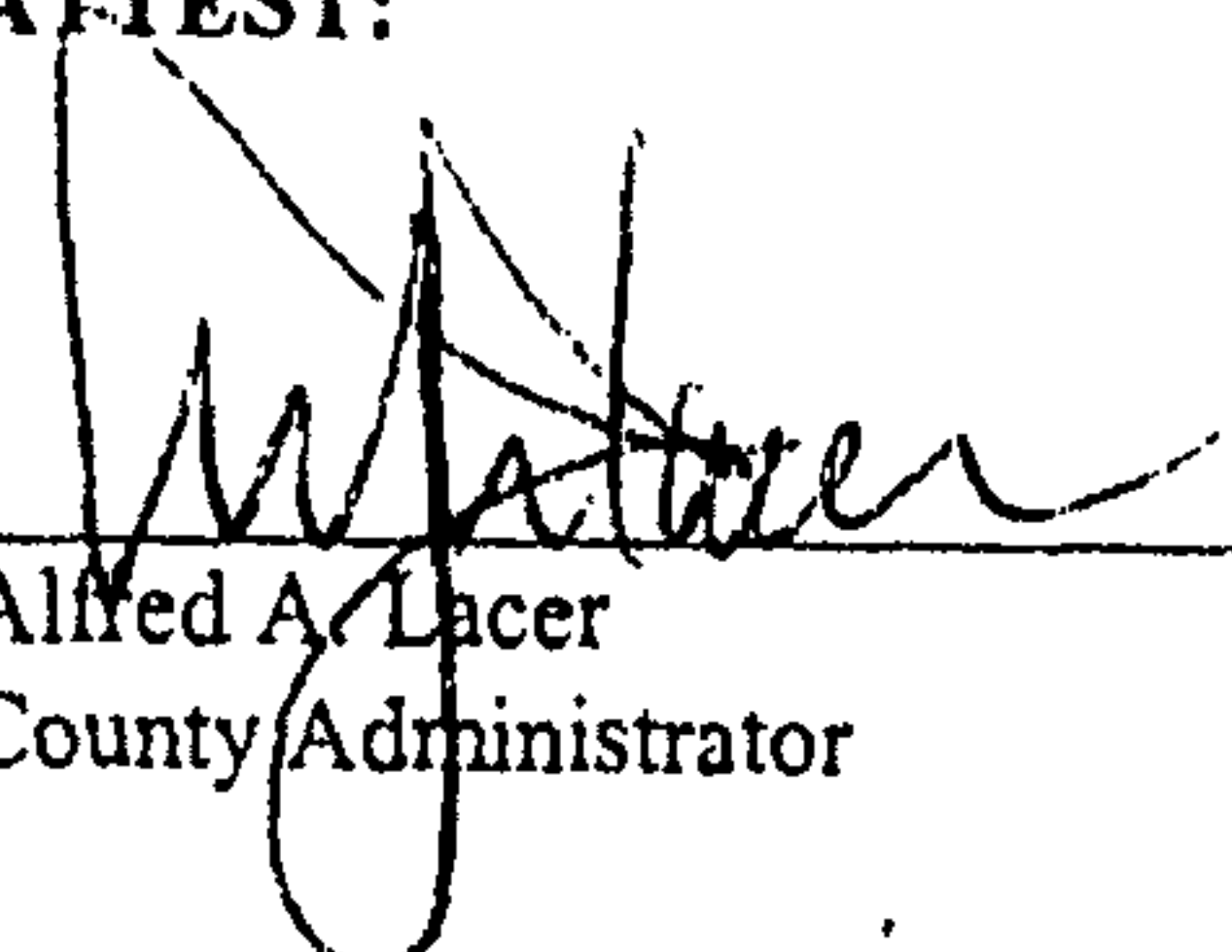
NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners for St. Mary's County, Maryland finds the maximum speed limit set forth for roads of the type of Harpers Court is greater than reasonable or safe, and that Harpers Court, County Route 31330, located in the Harper's Corner Estates Subdivision, Fifth (5<sup>th</sup>) Election District, St. Mary's County, Maryland (Plat Reference: EWA 44, Page 71) be posted at 25 miles per hour as per the recommendation of the St. Mary's County Department of Public Works and Transportation.

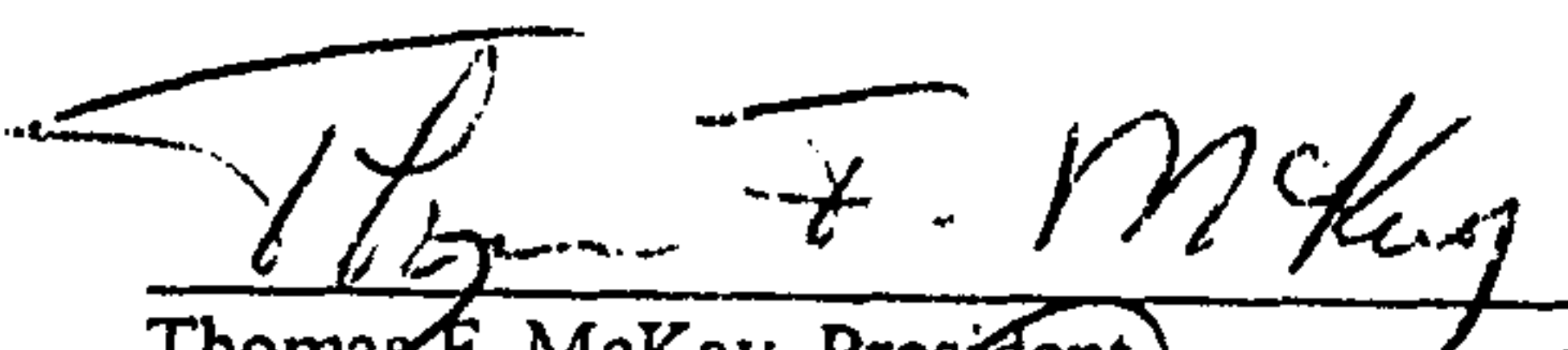
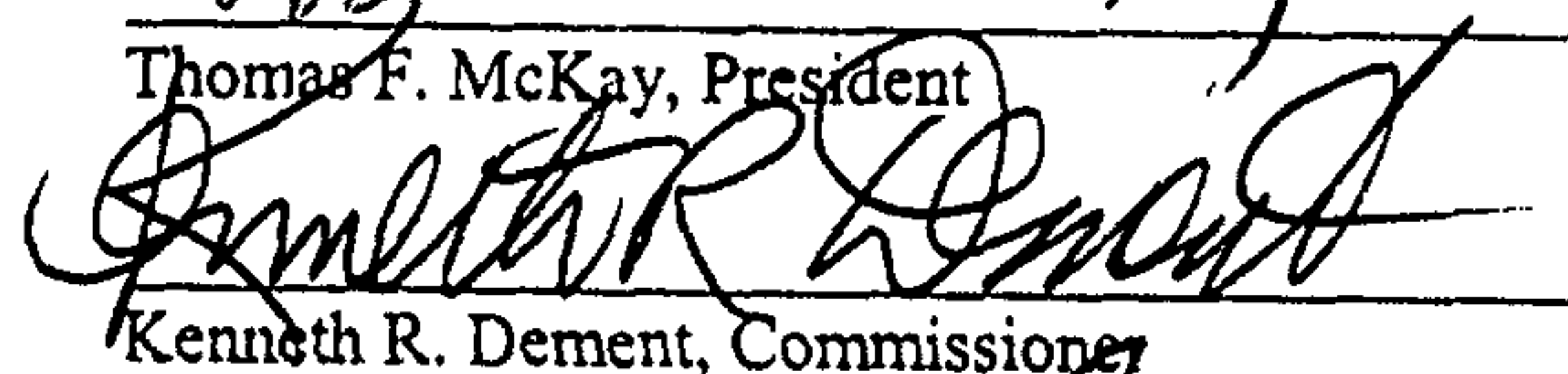
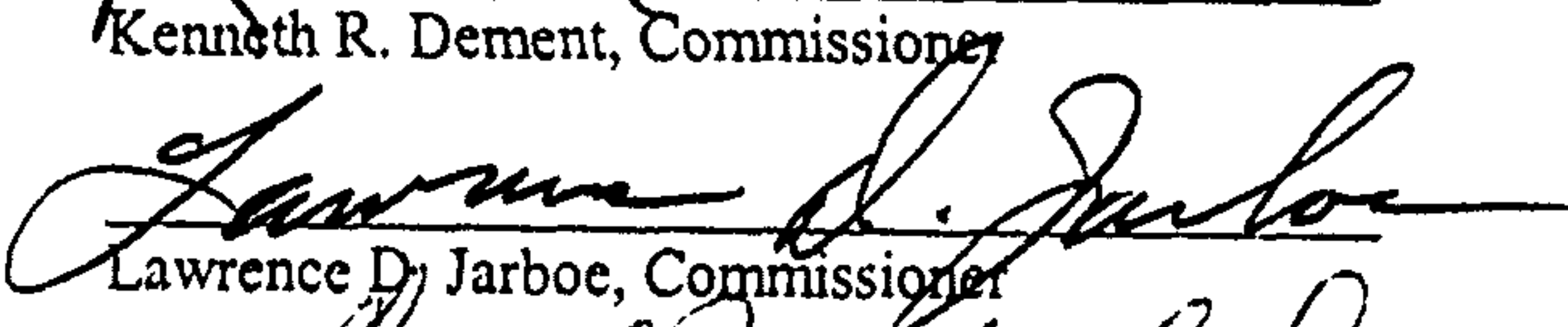
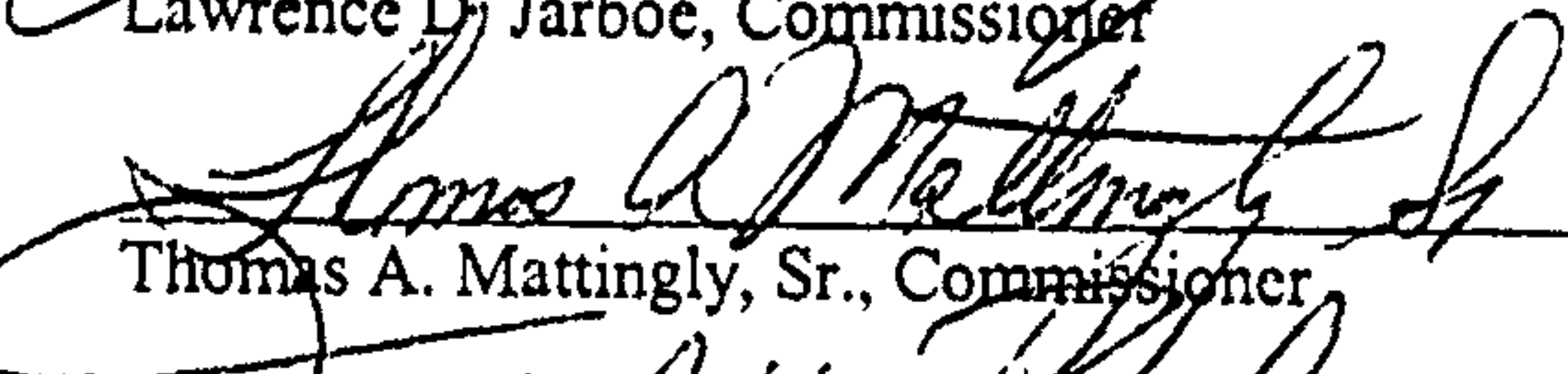
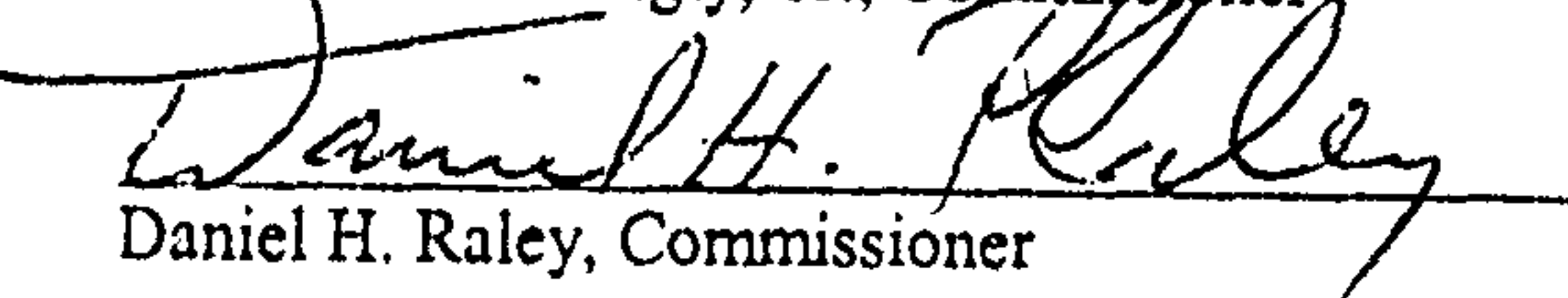
BE IT FURTHER RESOLVED, that the Director of the Department of Public Works and Transportation is directed to install the signage necessary to implement this Resolution in accordance with Section 21-801.1(f) and 21-803 (c) of the Maryland Annotated Code, Transportation Article.


Those voting aye: all  
Those voting nay: \_\_\_\_\_  
Those abstaining or absent: \_\_\_\_\_

RECORDING FEE 0.00  
TOTAL 0.00  
Res#002 Next#99999  
EWA CSS 011#2364  
Jan 24, 2003 09:38 am

Date of Adoption: 1/14/03  
Effective Date: 1/14/03

ATTEST:  
  
Alfred A. Lacer  
County Administrator

BOARD OF COUNTY COMMISSIONERS FOR  
ST. MARY'S COUNTY, MARYLAND  
  
Thomas F. McKay, President  
  
Kenneth R. Dement, Commissioner  
  
Lawrence D. Jarboe, Commissioner  
  
Thomas A. Mattingly, Sr., Commissioner  
  
Daniel H. Raley, Commissioner

APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY:  
  
John B. Norris, III  
County Attorney

NO.: 03  
02- 03  
SUBJECT: Harpers Court  
Stop Sign  
Harper's Corner Estates Subdivision

LIBERO 024 PAGE 04 RESOLUTION

WHEREAS, pursuant to Section 1 of Article 25 of the Maryland Annotated Code, Section 109-1 of Article 19 of the Code of Public Local Laws of Maryland, and Section 25-102 of the Transportation Article of the Maryland Annotated Code, the Board of County Commissioners for St. Mary's County, Maryland, is authorized and empowered to regulate traffic by means of a traffic control device, and to designate any intersection as a stop intersection, or yield intersection.

WHEREAS, the Director of the St. Mary's County Department of Public Works and Transportation has identified the intersection of Harpers Court, County Route 31330, located in the Harper's Corner Estates Subdivision, Fifth (5<sup>th</sup>) Election District, St. Mary's County, Maryland, as per Record Plat recorded at EWA 44, Page 71, as a threat to public safety and a hazardous condition due to the absence of a traffic control device at this intersection; and

WHEREAS, the Director of the St. Mary's County Department of Public Works and Transportation has, therefore, recommended that the Board of County Commissioners for St. Mary's County, Maryland, exercise its authority to regulate traffic at this intersection by means of a traffic control device, specifically, a stop sign on Harpers Court, County Route 31330, at the intersection with Harper's Corner Road, County Route 30060.

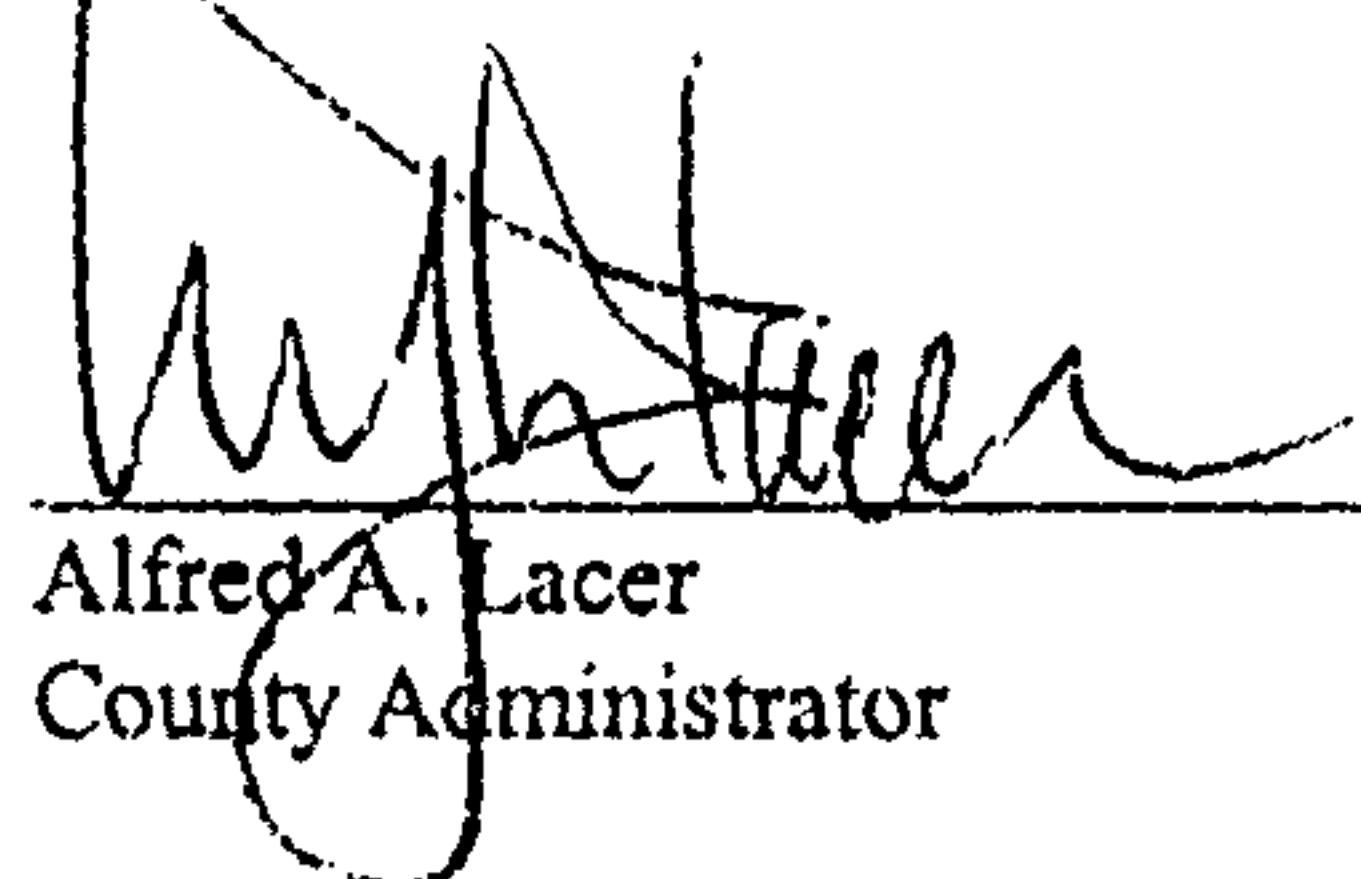
NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners for St. Mary's County, Maryland, finds that, upon the advice of the Director of the Department of Public Works and Transportation, a hazardous condition currently exists at the intersection of Harpers Court, County Route 31330, and Harper's Corner Road, County Route 30060; and in the interest of public safety and to eliminate a hazardous condition, Harpers Court, County Route 31330, further identified as being located in the Harper's Corner Estates Subdivision, Fifth (5<sup>th</sup>) Election District, St. Mary's County, Maryland (Plat Reference: EWA 44, Page 71) shall be designated as a Stop Street, which is a reasonable exercise of this Board's police powers; and

BE IT FURTHER RESOLVED, that the Board of County Commissioners for St. Mary's County, Maryland, directs and instructs the Director of the Department of Public Works and Transportation to erect traffic control devices, specifically a stop sign on Harpers Court, County Route 31330, at the intersection with Harper's Corner Road, County Route 30060.

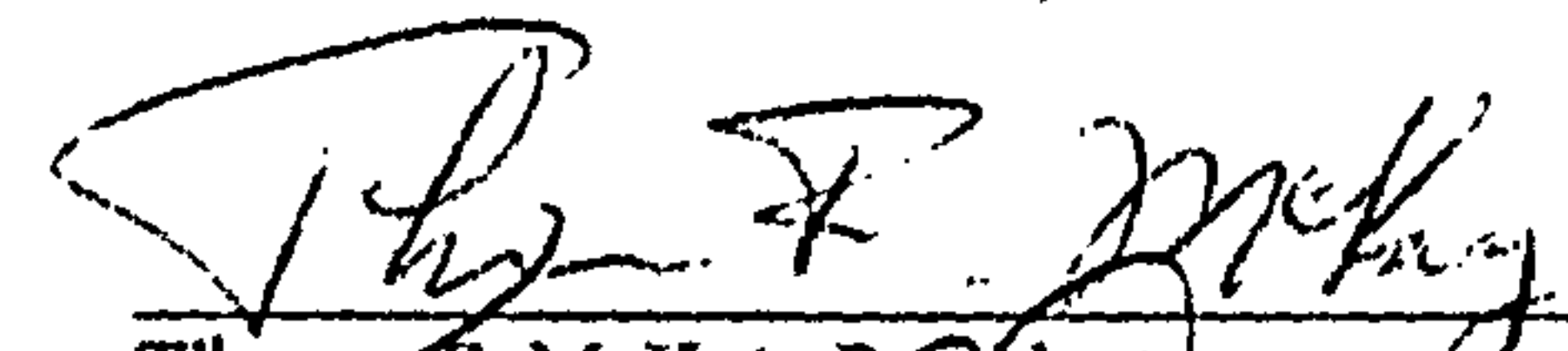
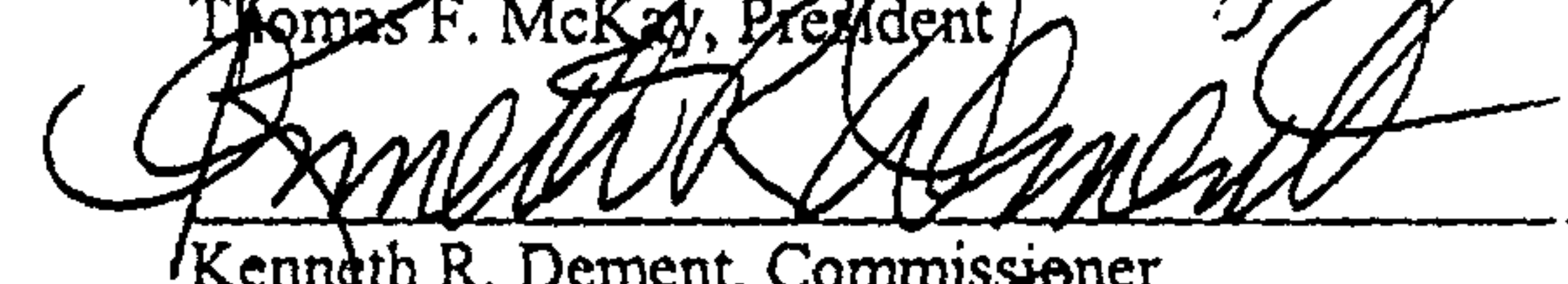
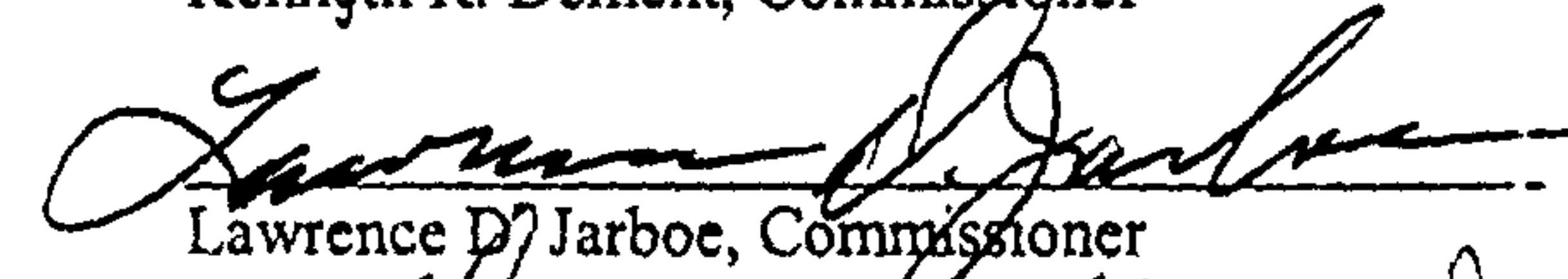
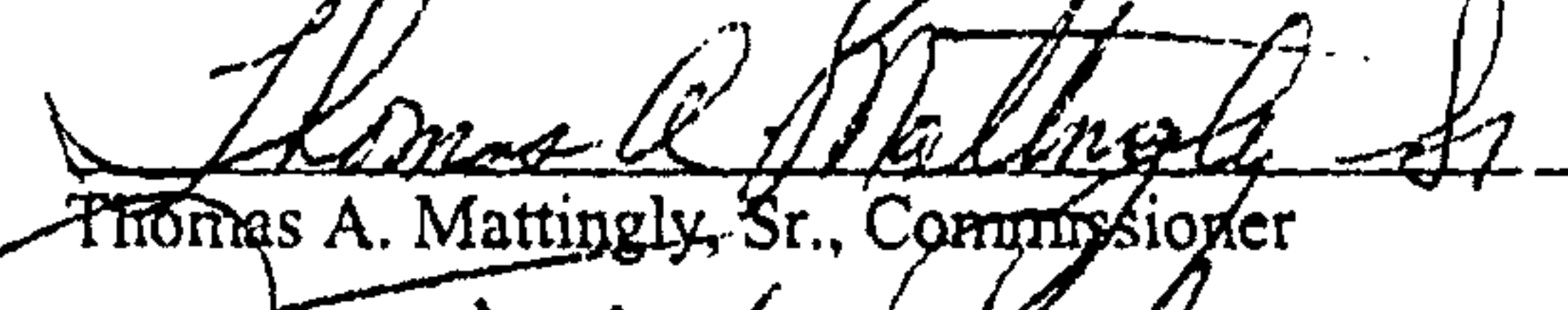
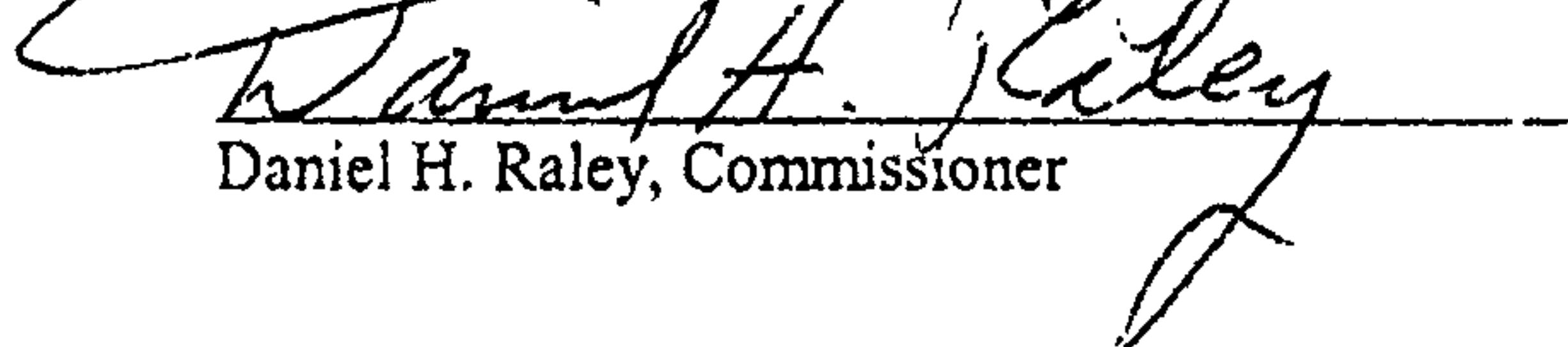
Those voting aye: all  
Those voting nay: \_\_\_\_\_  
Those abstaining or absent: \_\_\_\_\_  
Date of Adoption: 1/14/03  
Effective Date: 1/14/03

RECORDING FEE 0.00  
TOTAL 0.00  
Res#0102 Rcr#599999  
EWA 033 01412064  
Jan 24, 2003 03:33 am


ATTEST:

  
Alfred A. Lacer  
County Administrator

BOARD OF COUNTY COMMISSIONERS FOR  
ST. MARY'S COUNTY, MARYLAND

  
Thomas F. McKay, President  
  
Kenneth R. Dement, Commissioner  
  
Lawrence D. Jarboe, Commissioner  
  
Thomas A. Mattingly, Sr., Commissioner  
  
Daniel H. Raley, Commissioner

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
John B. Norris, III  
County Attorney

NO.: 03  
02-04  
SUBJECT: Adoption of Bryan Road  
Emerald Hills Estates Subdivision  
Phase 1

RESOLUTION

WHEREAS, pursuant to Sections 109-1 and 109-2 of Article 19 of the Code of Public Local Laws of Maryland, the County Commissioners for St. Mary's County, Maryland, is authorized to accept new subdivision streets in accordance with the applicable provisions of the County Subdivision Regulations; and

WHEREAS, the Director of the St. Mary's County Department of Public Works and Transportation has advised the Board of County Commissioners for St. Mary's County, Maryland, that all work has been satisfactorily completed in accordance with the County Subdivision Regulations, Public Works Agreement dated December 10, 1998, and Record Plat recorded at Liber EWA 48, Folio 67, for Bryan Road, County Route 31349, and

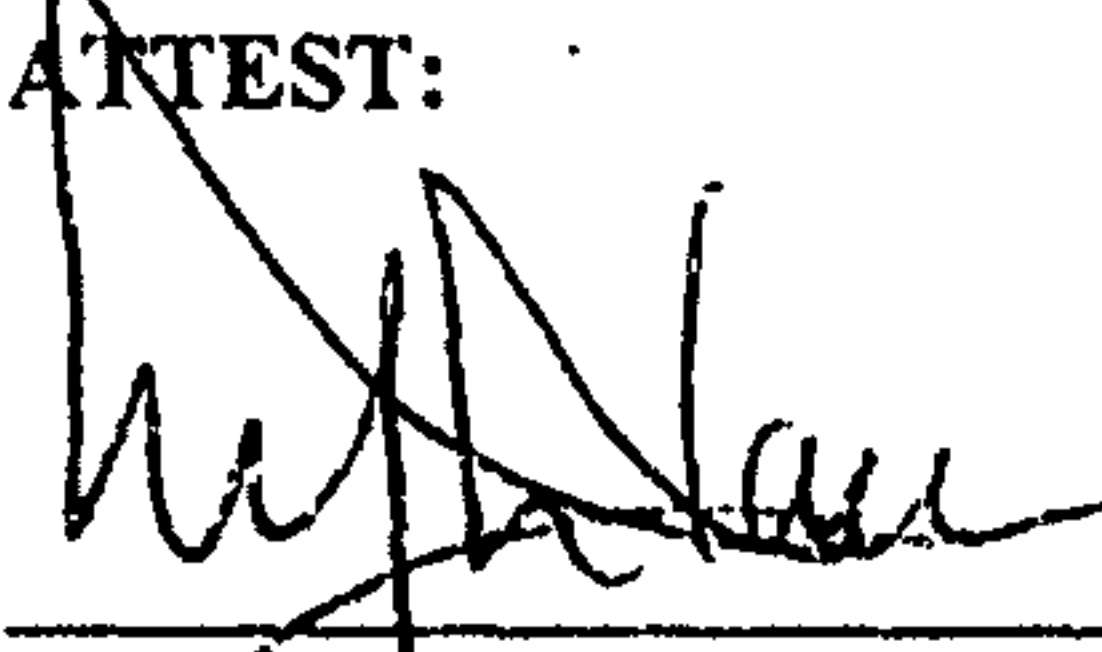
WHEREAS, Emerald Hills Estates Subdivision, Phase 1, is subject to the requirements of the St. Mary's County Subdivision Ordinance (1973) and pursuant to Section 24 of the St. Mary's County Subdivision Ordinance (2002).

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners for St. Mary's County, Maryland, finding that Bryan Road, County Route 31349, located in the Emerald Hills Estates Subdivision, Phase 1, Eighth (8<sup>th</sup>) Election District, St. Mary's County, Maryland (Plat Reference: Liber EWA 48, Folio 67) meets the applicable requirements of the St. Mary's County Subdivision Ordinance (1978), as amended, and hereby accepts Bryan Road, County Route 31349, into the County's Highway Maintenance System.

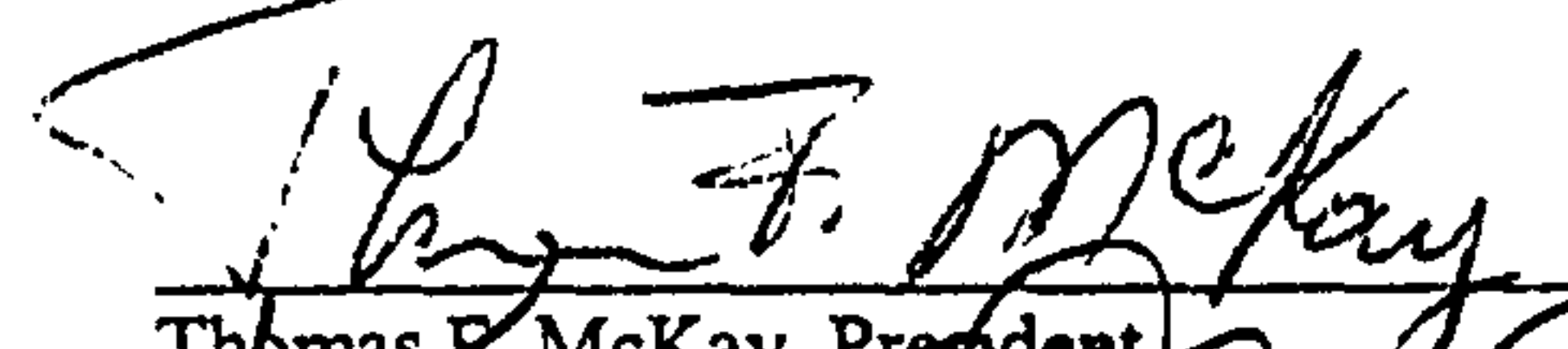
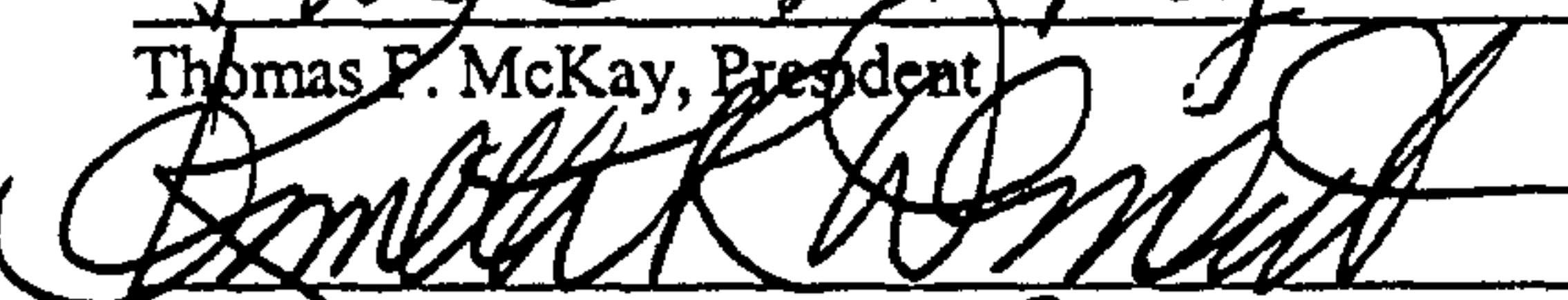
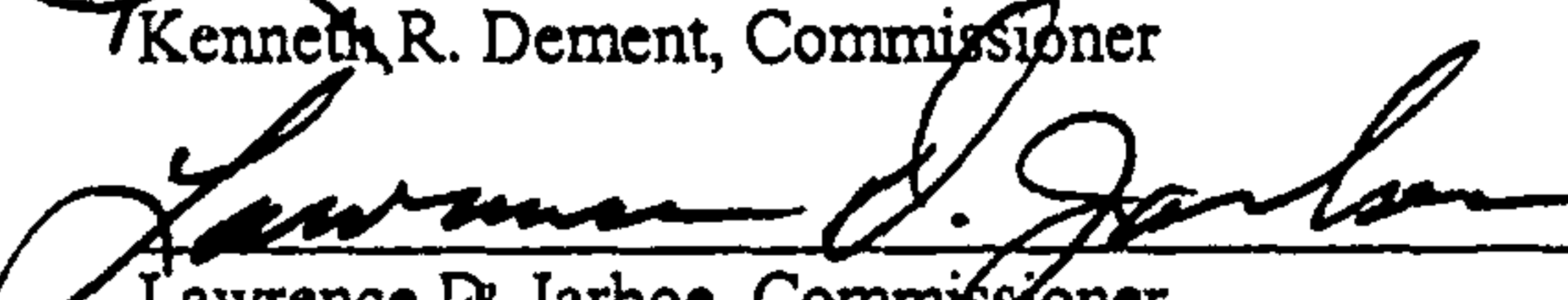
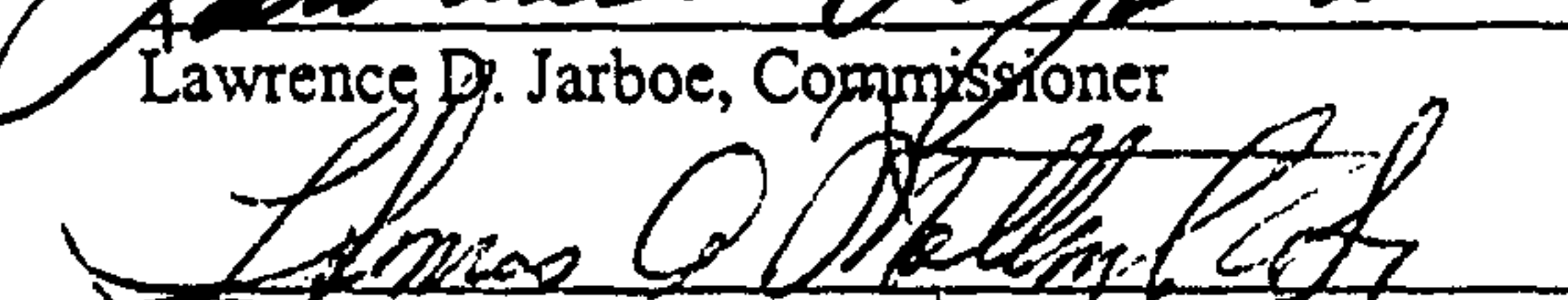
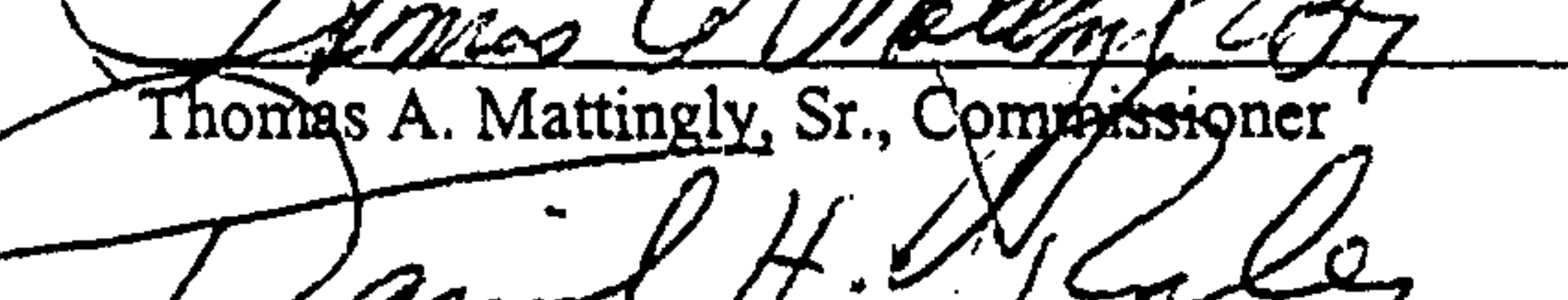
Those voting aye: all  
Those voting nay: \_\_\_\_\_  
Those abstaining or absent: \_\_\_\_\_  
Date of Adoption: 1/14/03  
Effective Date: 1/14/03

RECORDING FEE 0.00  
TOTAL 0.00  
Res#00000000 Rcpt#999999  
EWA Doc 81k12364  
Jan 24, 2003 09:40 am


ATTEST:

  
\_\_\_\_\_  
Alfred A. Lacer  
County Administrator

BOARD OF COUNTY COMMISSIONERS FOR  
ST. MARY'S COUNTY, MARYLAND

  
\_\_\_\_\_  
Thomas F. McKay, President  
  
\_\_\_\_\_  
Kenneth R. Dement, Commissioner  
  
\_\_\_\_\_  
Lawrence D. Jarboe, Commissioner  
  
\_\_\_\_\_  
Thomas A. Mattingly, Sr., Commissioner  
  
\_\_\_\_\_  
Daniel H. Raley, Commissioner

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
John B. Norris, III  
County Attorney

NO.: 03  
02- 05  
SUBJECT: Bryan Road  
Stop Sign  
Emerald Hills Estates Subdivision  
Phase 1

LIBERO 024 PAGE 06 RESOLUTION

WHEREAS, pursuant to Section 1 of Article 25 of the Maryland Annotated Code, Section 109-1 of Article 19 of the Code of Public Local Laws of Maryland, and Section 25-102 of the Transportation Article of the Maryland Annotated Code, the Board of County Commissioners for St. Mary's County, Maryland, is authorized and empowered to regulate traffic by means of a traffic control device, and to designate any intersection as a stop intersection, or yield intersection.

WHEREAS, the Director of the St. Mary's County Department of Public Works and Transportation has identified the intersection of Bryan Road, County Route 31349, located in Phase 1 of the Emerald Hills Estates Subdivision, Eighth (8<sup>th</sup>) Election District, St. Mary's County, Maryland, as per Record Plat recorded at EWA 48, Page 67, as a threat to public safety and a hazardous condition due to the absence of a traffic control device at this intersection; and

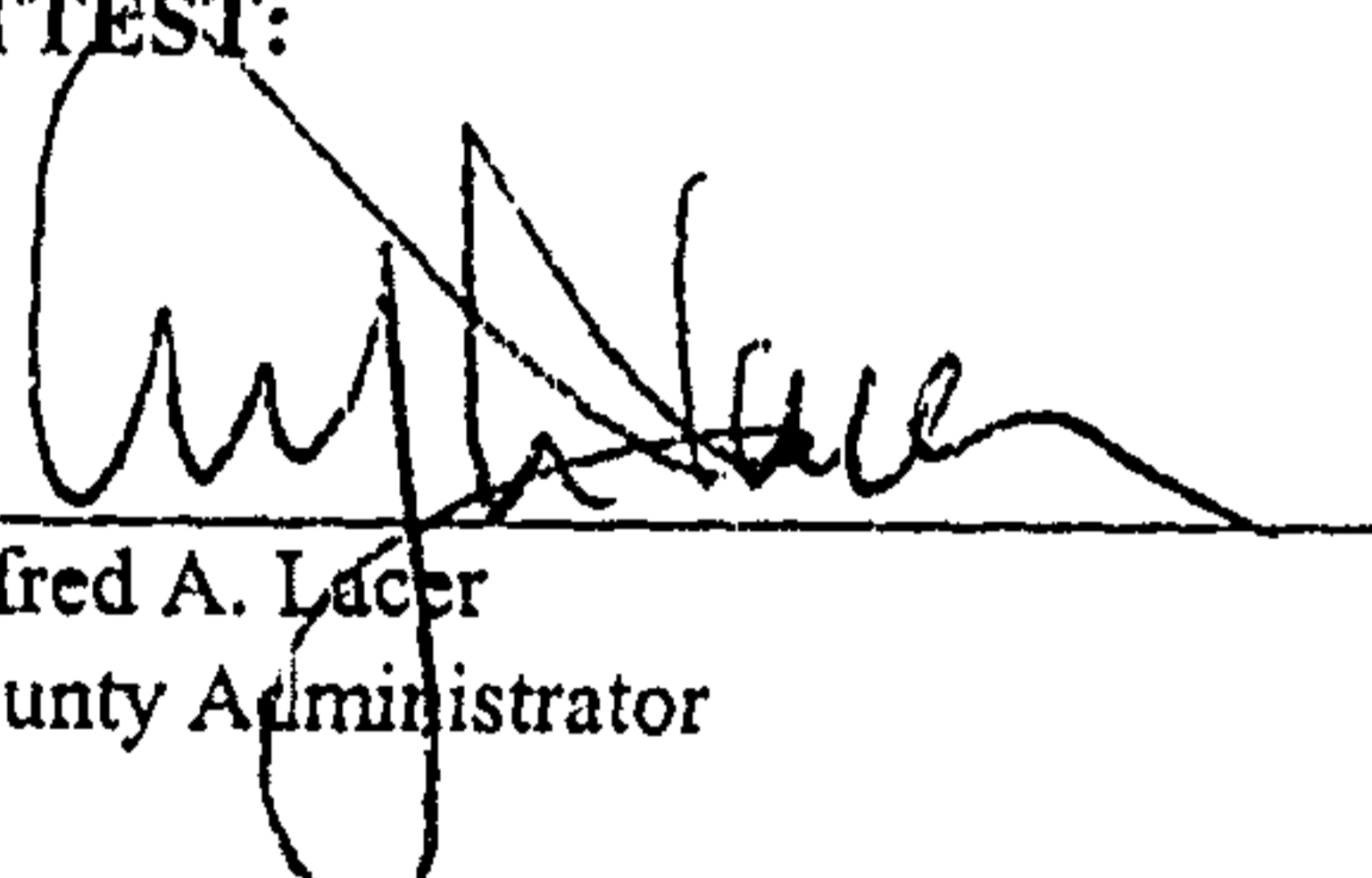
WHEREAS, the Director of the St. Mary's County Department of Public Works and Transportation has, therefore, recommended that the Board of County Commissioners for St. Mary's County, Maryland, exercise its authority to regulate traffic at this intersection by means of a traffic control device, specifically, a stop sign on Bryan Road, County Route 31349, at the intersection with Lynn Drive, County Route 30473.

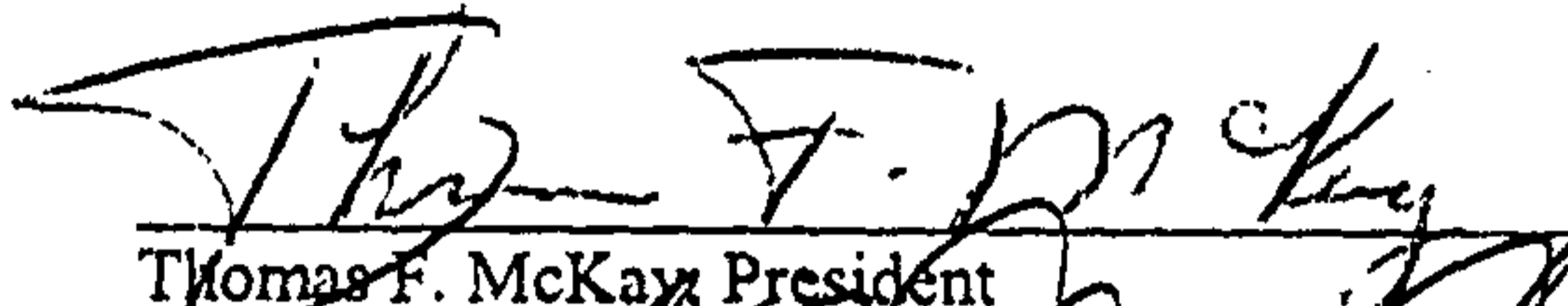


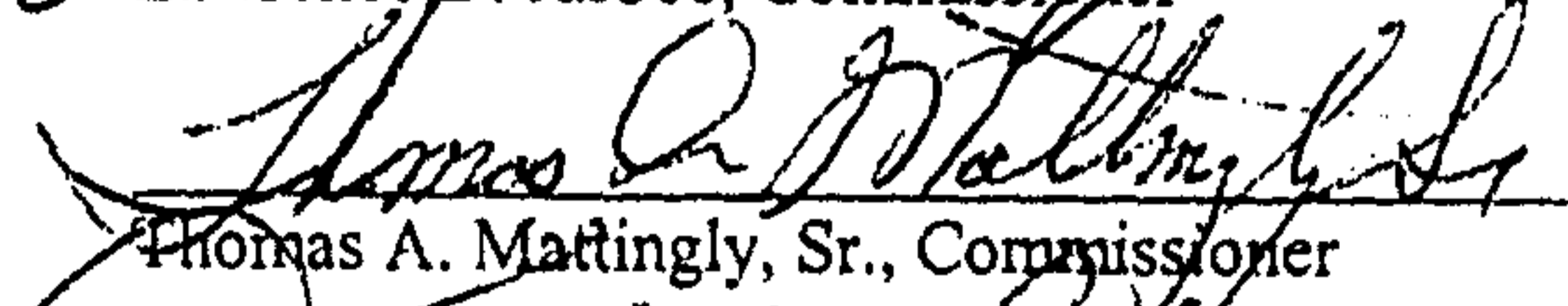
NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners for St. Mary's County, Maryland, finds that, upon the advice of the Director of the Department of Public Works and Transportation, a hazardous condition currently exists at the intersection of Bryan Road, County Route 31349, and Lynn Drive, County Route 30473; and in the interest of public safety and to eliminate a hazardous condition, Bryan Road, County Route 31349, further identified as being located in Phase 1 of the Emerald Hills Estates Subdivision, Eighth (8<sup>th</sup>) Election District, St. Mary's County, Maryland (Plat Reference: EWA 48, Page 67) shall be designated as a Stop Street, which is a reasonable exercise of this Board's police powers; and

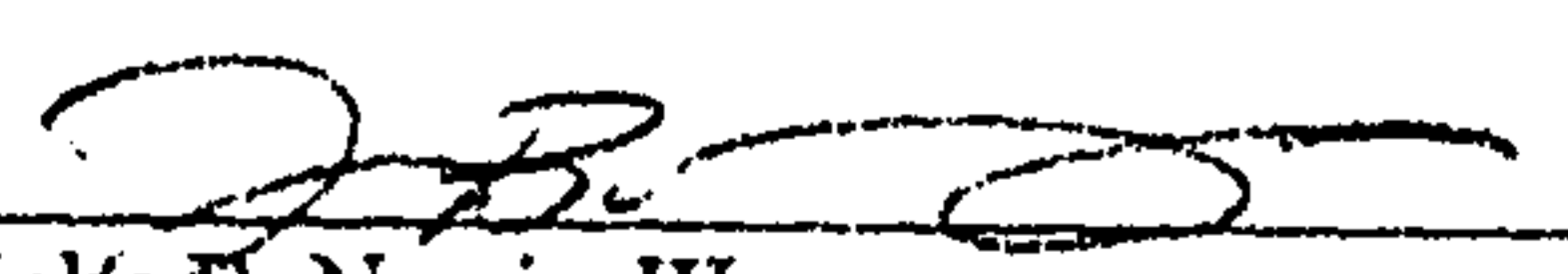
BE IT FURTHER RESOLVED, that the Board of County Commissioners for St. Mary's County, Maryland, directs and instructs the Director of the Department of Public Works and Transportation to erect traffic control devices, specifically a stop sign on Bryan Road, County Route 31349, at the intersection with Lynn Drive, County Route 30473.

Those voting aye: all  
Those voting nay: \_\_\_\_\_  
Those abstaining or absent: \_\_\_\_\_  
Date of Adoption: 1/14/03  
Effective Date: 1/14/03

RECORDING FEE 0.00  
TOTAL 0.00  
RESUME RPT#999999  
EWA CSE 31349364  
Jan 24 2003 09:40 am

ATTEST:  
  
Alfred A. Lacer  
County Administrator

BOARD OF COUNTY COMMISSIONERS FOR  
ST. MARY'S COUNTY, MARYLAND  
  
Thomas F. McKay, President  
  
Kenneth R. Dement, Commissioner  
  
Lawrence D. Jarboe, Commissioner  
  
Thomas A. Mattingly, Sr., Commissioner  
  
Daniel H. Raley, Commissioner

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:  
  
John B. Norris, III  
County Attorney

NO.: 03  
SUBJECT: 02-06  
Bryan Road  
Speed Limit  
Emerald Hills Estates Subdivision  
Phase 1

LIBERO 024 PAGED 07

RESOLUTION

WHEREAS, pursuant to the authority granted under Section 10-I of *Article 25* of the Maryland Annotated Code and Section 25-102 (a) (10) and Section 21-803 of the Maryland Annotated Code, Transportation Article, the County Commissioners for St. Mary's County, Maryland, may alter the speed upon a public road within the County; and

WHEREAS, the Director of the St. Mary's County Department of Public Works and Transportation has advised that the maximum speed limit set forth in Title 21 of the *Transportation Article* of the Maryland Annotated Code for Bryan Road, County Route 31349, located in Phase 1 of the Emerald Hills Estates Subdivision, Eighth (8<sup>th</sup>) Election District, St. Mary's County, Maryland, as per Record Plat recorded at EWA 48, Page 67, is greater than reasonable or safe under existing conditions of road design, motor vehicle traffic and pedestrian safety; and

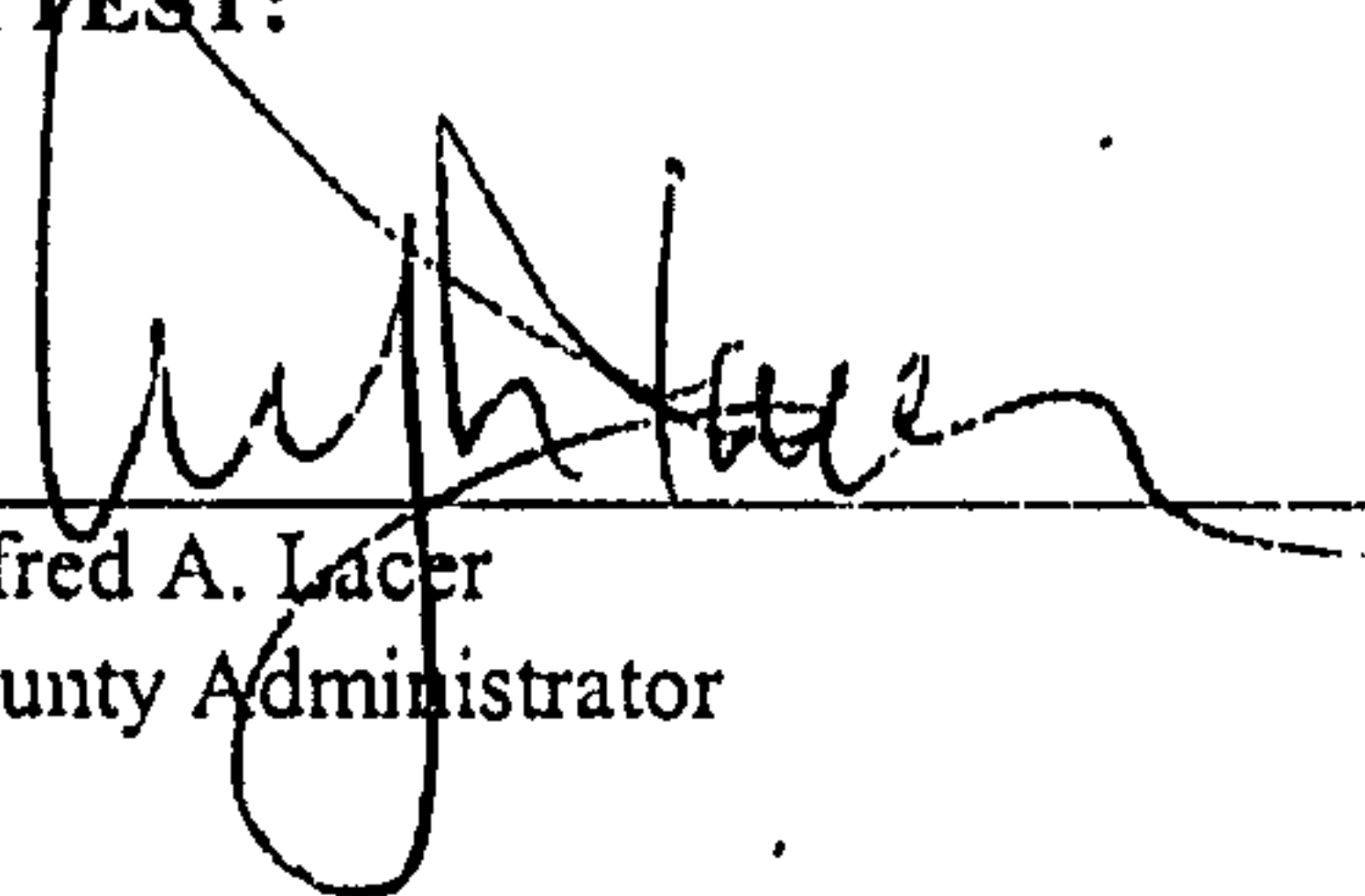
WHEREAS, the Director of the St. Mary's County Department of Public Works and Transportation has advised that 25 miles per hour is a reasonable and safe maximum speed for Bryan Road, County Route 31349.

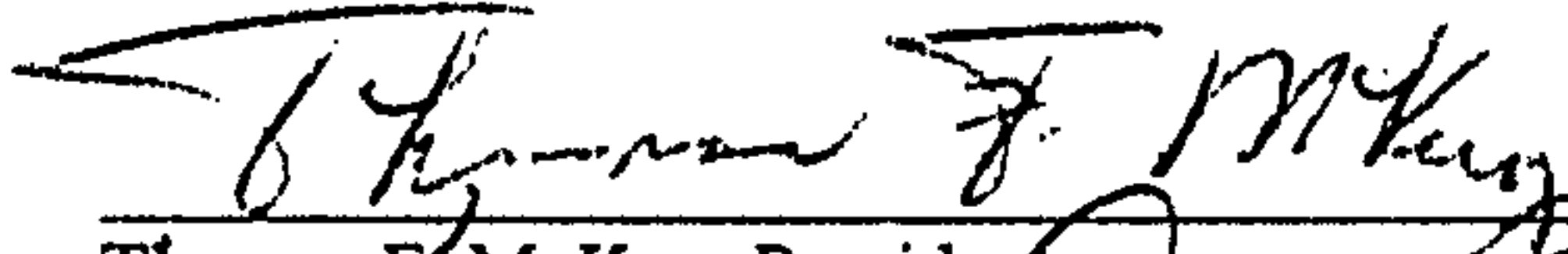
NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners for St. Mary's County, Maryland finds the maximum speed limit set forth for roads of the type of Bryan Road is greater than reasonable or safe, and that Bryan Road, County Route 31349, located in Phase 1 of the Emerald Hills Estates Subdivision, Eighth (8<sup>th</sup>) Election District, St. Mary's County, Maryland (Plat Reference: EWA 48, Page 67) be posted at 25 miles per hour as per the recommendation of the St. Mary's County Department of Public Works and Transportation.


BE IT FURTHER RESOLVED, that the Director of the Department of Public Works and Transportation is directed to install the signage necessary to implement this Resolution in accordance with Section 21-801.1(f) and 21-803 (c) of the Maryland Annotated Code, Transportation Article.

Those voting aye: all  
Those voting nay: \_\_\_\_\_  
Those abstaining or absent: \_\_\_\_\_  
Date of Adoption: 1/14/03  
Effective Date: 1/14/03

RECORDING FEE 0.00  
TOTAL 0.00  
Res#5102 Rcr#399999  
EWA 488 BIR#2864  
Jan 24, 2003 09:40 am

ATTEST:  
  
Alfred A. Lacer  
County Administrator

BOARD OF COUNTY COMMISSIONERS FOR  
ST. MARY'S COUNTY, MARYLAND  
  
Thomas F. McKay, President  
  
Kenneth R. Dement, Commissioner  
  
Lawrence D. Jarboe, Commissioner  
  
Thomas A. Mattingly, Sr., Commissioner  
  
Daniel H. Raley, Commissioner

APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY:  
  
John B. Norris, III  
County Attorney

**Purpose**

TO AMEND ARTICLE XV, CHAPTER 267 OF THE  
CODE PUBLIC LOCAL LAWS OF ST. MARY'S  
COUNTY RELATING TO THE REAL PROPERTY  
TRANSFER TAX.

RECORDING FL. 8.00  
TOTAL 8.00  
Rest#502 Re:4599999  
EMA KED 81R 14222  
Jan 31, 2003 02:13 PM

**ORDINANCE**

WHEREAS, the County Commissioners of St. Mary's County, Maryland, established a county transfer tax pursuant to the authority of the Laws of Maryland, Chapter 599 (1990); and

WHEREAS, the Laws of Maryland, Chapter 599 (1990) was codified as §138-1 of the Code of Public Local Laws of St. Mary's County and, by §138-1, requires that the transfer tax shall be established by ordinance; and

WHEREAS, by Ordinance No. 90-13, which is codified as §267-32 through §267-43 of the Code of Public Laws of St. Mary's County; Ordinance No. 97-04, which is codified at §267-43.1 of the Code of Public Local Laws of St. Mary's County; and Ordinance No. 2000-23, which is codified as Chapter 267, Article XV, of the Code of Public Local Laws of St. Mary's County, the Board of County Commissioners established a transfer tax on real property; and

WHEREAS, it has come to the attention of the Board of County Commissioners that the exemption from tax provisions contained in §267-33(B) have created certain hardships on County residents; and

WHEREAS, the Board of County Commissioners desires to amend the provisions of §267-33(B) in order to alleviate these problems; and

WHEREAS, in accordance with Article 25, Section 3(r) of the Annotated Code of Maryland, notice of the public hearing was advertised on December 20, 2002 and December 27, 2002 in *The Enterprise*, a newspaper of general circulation in St. Mary's County, and a public hearing was held on January 7, 2003, to consider staff recommendation, public comment and discussion; and

WHEREAS, upon consideration of public comment and staff recommendation, the Board of County Commissioners find that it is in the best interest of the health, safety and welfare of the citizens of St. Mary's County to permit a duly authorized agent to certify on behalf of a Grantee, the intent of the Grantee to use the property by actually occupying the residence for at least seven (7) months out of a twelve (12) month period.

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED, by the Board of County Commissioners for St. Mary's County, Maryland, as follows:

1. That §267-33(B) is hereby repealed in its entirety and re-enacted as follows:
  - B. *Exemption from tax for instrument of writing.* The transfer tax does not apply to the first Thirty Thousand Dollars (\$30,000) of



consideration payable on the conveyance of owner-occupied residential property if the buyer intends to use the property as the buyer's principal residence by actually occupying the residence for at least seven (7) months of a twelve (12) month period, provided that the instrument of writing is accompanied by a statement under oath signed by the Grantees or agent of the Grantees stating that the Grantees intend to use the property as their principal residence by actually occupying the residence for at least seven (7) months out of a twelve (12) month period.

2. That all other sections of Article XVII, Chapter 267 of the Code of Public Local Laws for St. Mary's County, Maryland, shall remain in full force and effect and are hereby re-enacted.

Those voting aye: all

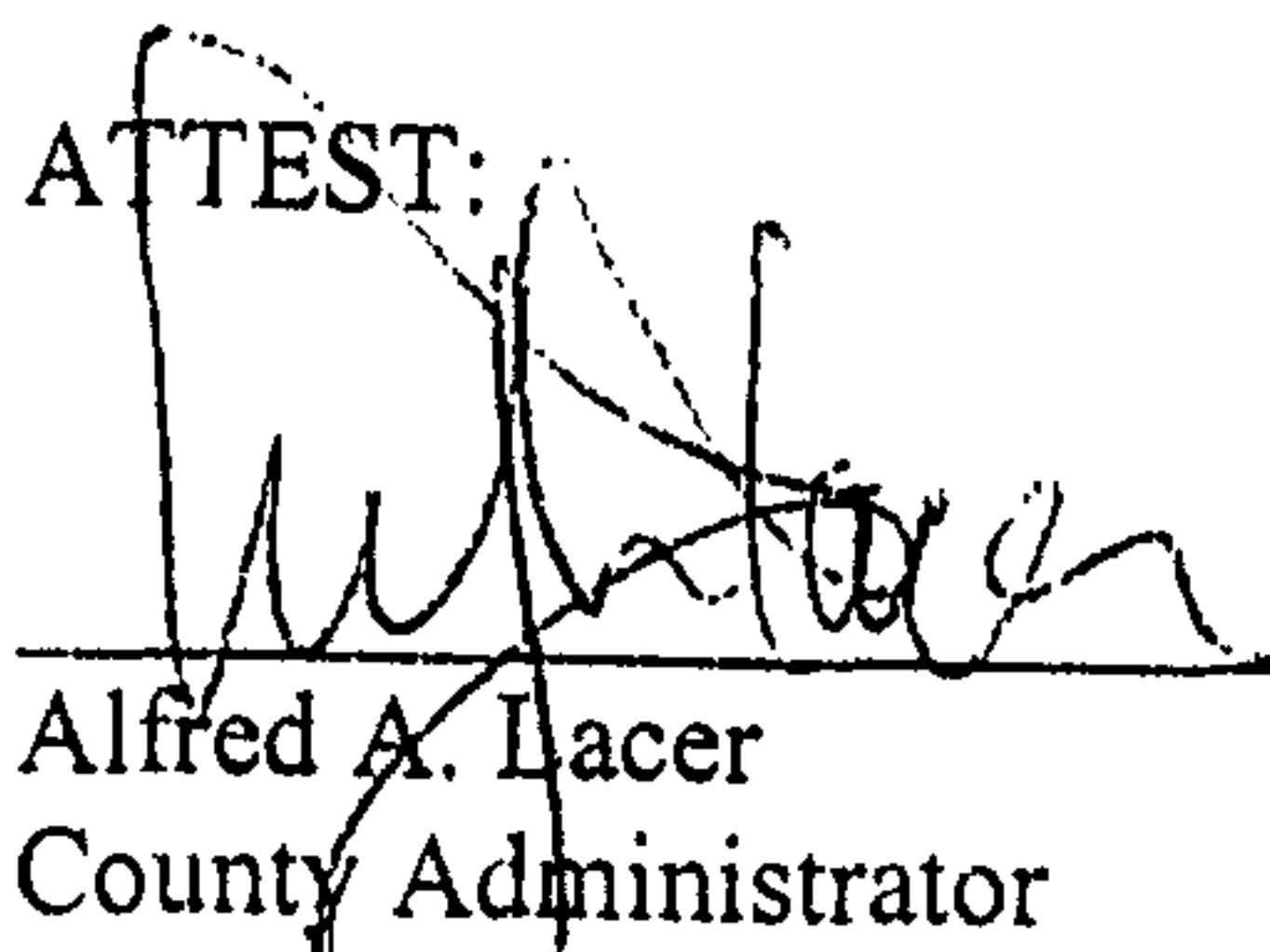
Those voting nay: \_\_\_\_\_

Those abstaining or absent: \_\_\_\_\_

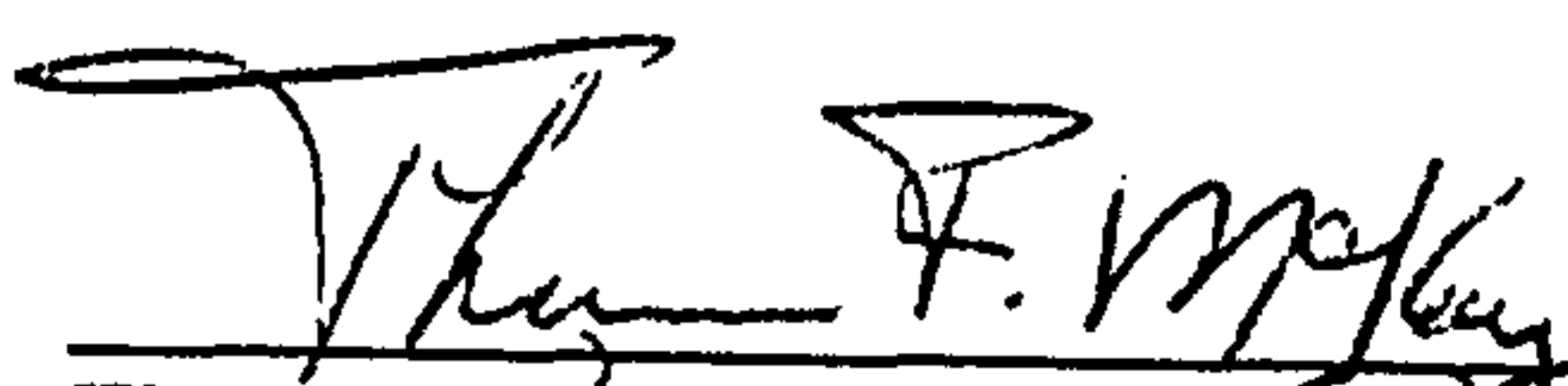
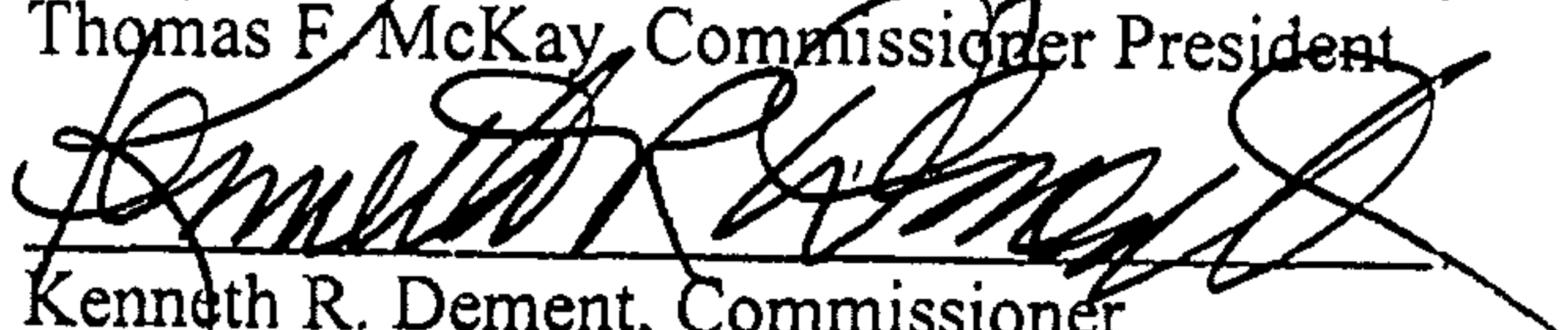
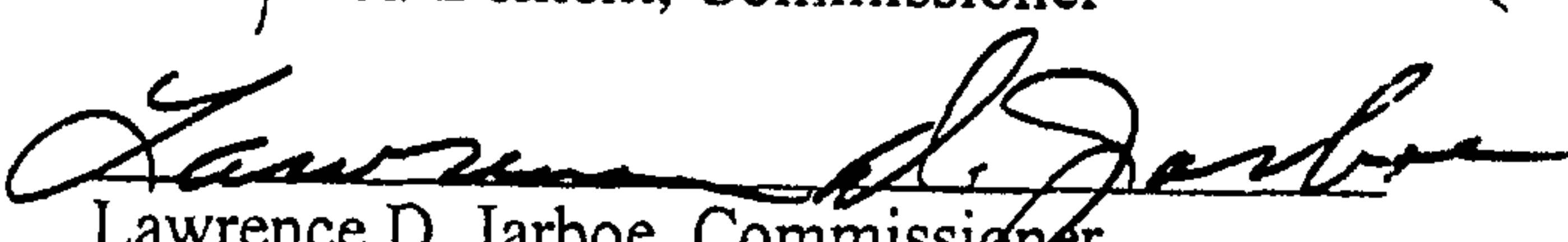
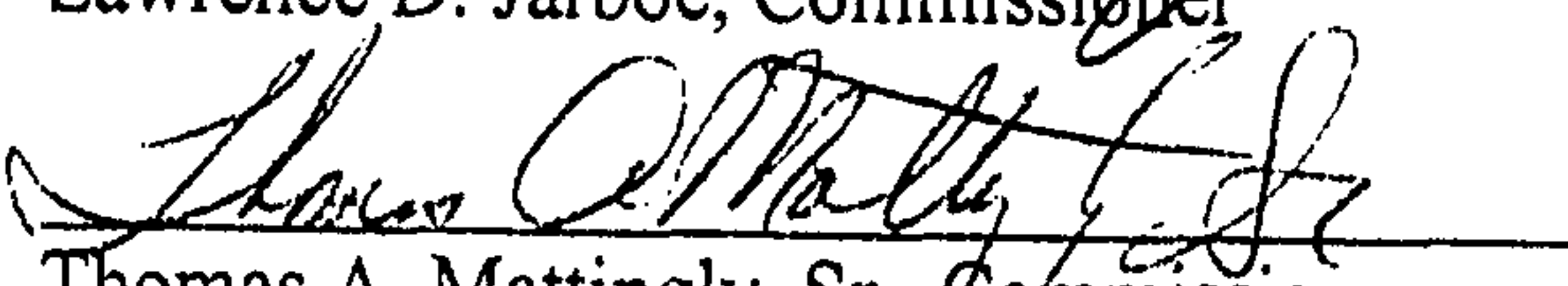
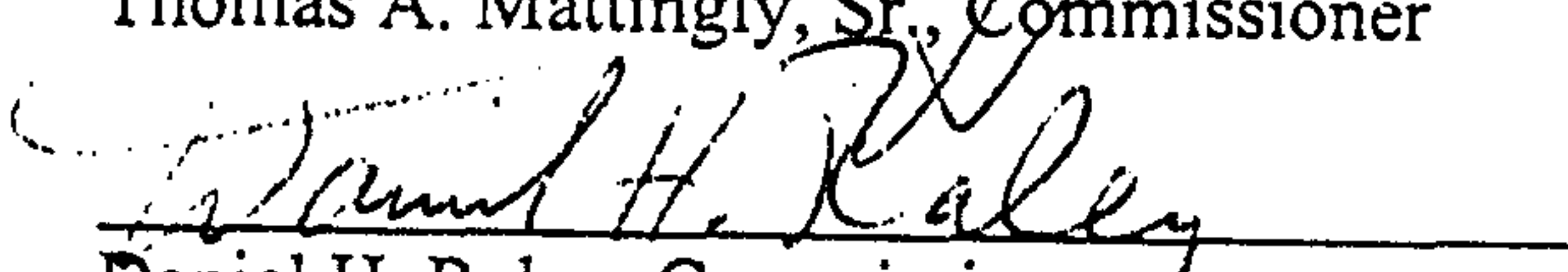
Approval Date: 1/28/03

Effective Date: 1/28/03


ATTEST:

  
\_\_\_\_\_  
Alfred A. Lacer  
County Administrator

BOARD OF COUNTY COMMISSIONERS  
FOR ST. MARY'S COUNTY, MARYLAND

  
\_\_\_\_\_  
Thomas F. McKay, Commissioner President  
  
\_\_\_\_\_  
Kenneth R. Dement, Commissioner  
  
\_\_\_\_\_  
Lawrence D. Jarboe, Commissioner  
  
\_\_\_\_\_  
Thomas A. Mattingly, Sr., Commissioner  
  
\_\_\_\_\_  
Daniel H. Raley, Commissioner

Approved as to form and legal  
sufficiency:

  
\_\_\_\_\_  
John B. Norris, III  
County Attorney

RESOLUTION

WHEREAS, pursuant to Section 25-102 of the Transportation Article of the Maryland Annotated Code, the Board of County Commissioners for St. Mary's County, Maryland, is authorized and empowered to regulate or prohibit stopping, standing, or parking of vehicles on highways within its jurisdiction.

WHEREAS, the Director of the St. Mary's County Department of Public Works and Transportation has identified the need to control stopping, standing and parking along a portion of Murray Road, County Road 30403, due to the existing conditions of road design, motor vehicle traffic and pedestrian safety; and

WHEREAS, the Director of the St. Mary's County Department of Public Works and Transportation has, therefore, recommended that the Board of County Commissioners for St. Mary's County, Maryland, exercise its authority to regulate stopping, standing and parking on Murray Road; specifically, No Parking Any Time along Murray Road, County Route 30403, on both sides of the roadway, beginning approximately 0.68 miles from its intersection with Fresh Pond Neck Road (County Route 30401) for a distance along Murray Road of approximately 300 feet north, and ending at the limit of County maintenance adjacent to the old Fish Commission Pond in Ridge, Maryland.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners for St. Mary's County, Maryland, finds that, upon the advice of the Director of the St. Mary's County Department of Public Works and Transportation, a nuisance condition currently exists on Murray Road, and that in the interest of public health and safety and to help alleviate the existing condition, Murray Road, County Route 30403, further identified as being located in the First (1st) Election District, St. Mary's County, Maryland, shall be designated as "No Parking Any Time" on both sides of the roadway for a distance along Murray Road of approximately 300 feet north, beginning at a point approximately 0.68 miles from its intersection with Fresh Pond Neck Road (County Route 30401), and ending at the limit of County maintenance adjacent to the old Fish Commission Pond in Ridge, Maryland, which is a reasonable exercise of this Board's police powers; and

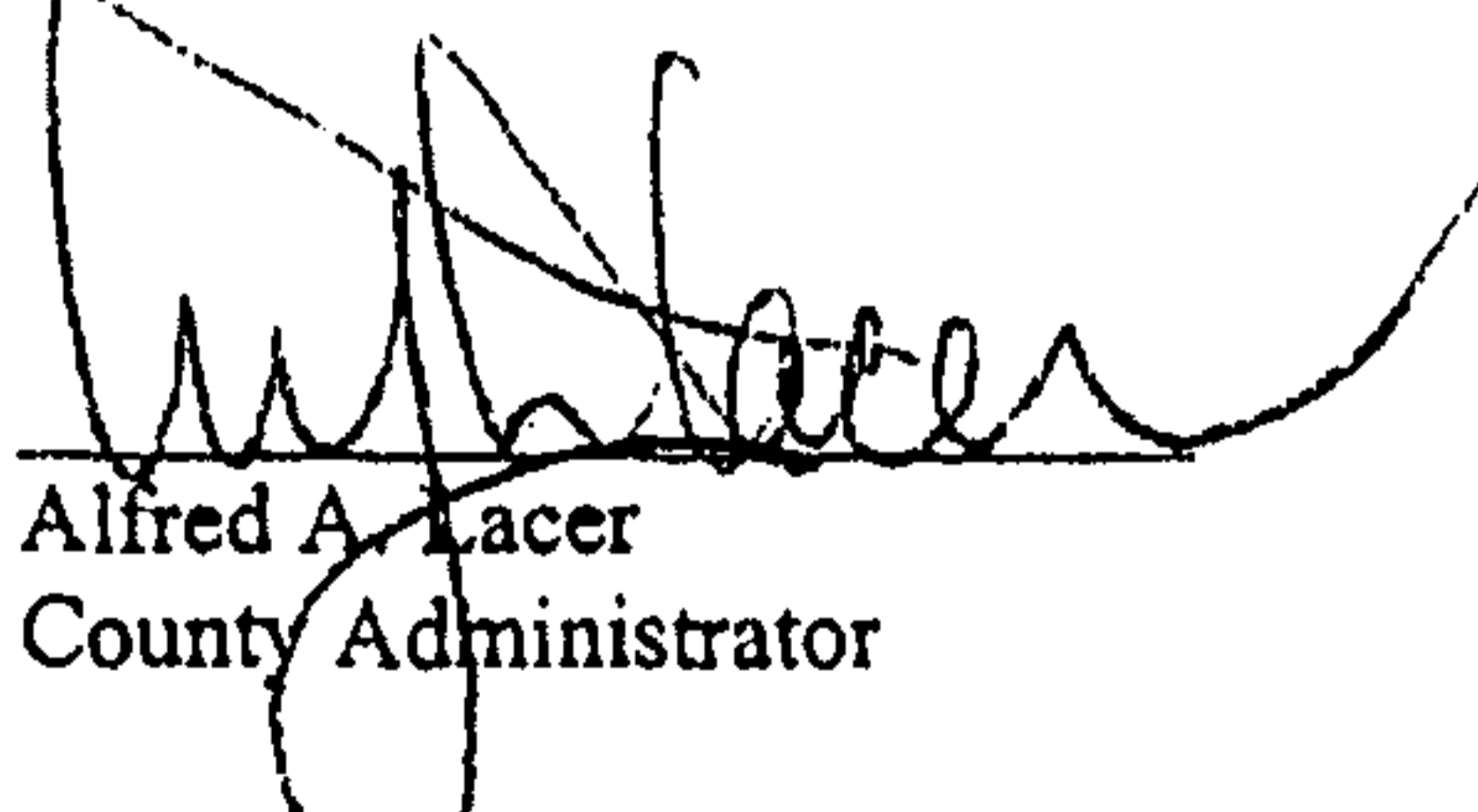
BE IT FURTHER RESOLVED, that the Board of County Commissioners for St. Mary's County, Maryland, directs and instructs the Director of the St. Mary's County Department of Public Works and Transportation to erect the necessary traffic control devices, specifically, No Parking Any Time signs on Murray Road, County Route 30403, on both sides of the roadway, beginning approximately 0.68 miles from its intersection with Fresh Pond Neck Road (County Route 30401) for a distance along Murray Road of approximately 300 feet north, and ending adjacent to the old Fish Commission Pond in Ridge, Maryland, as necessary to identify the referenced portion of Murray Road as a No Parking Zone; and

BE IT FURTHER RESOLVED, that the foregoing recitals are incorporated herein by reference.

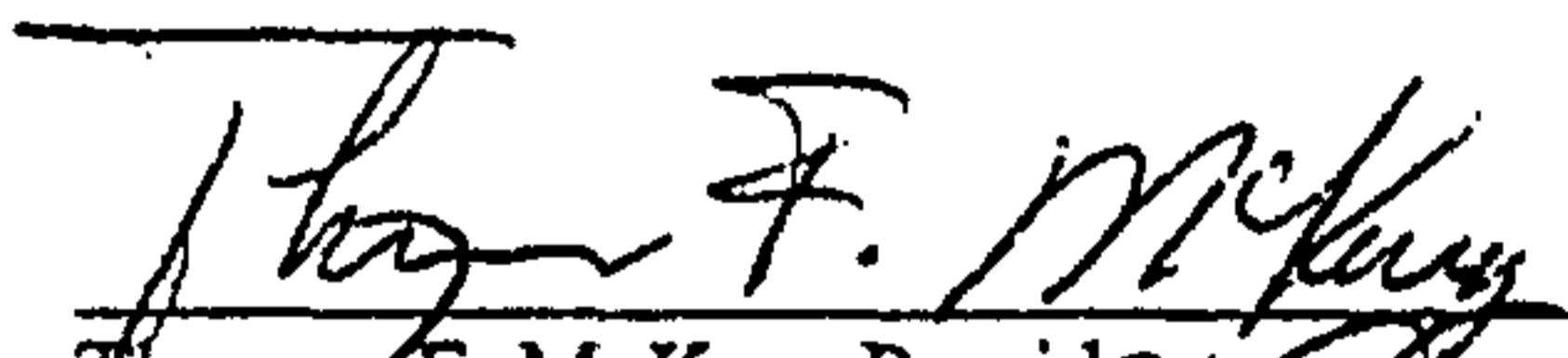
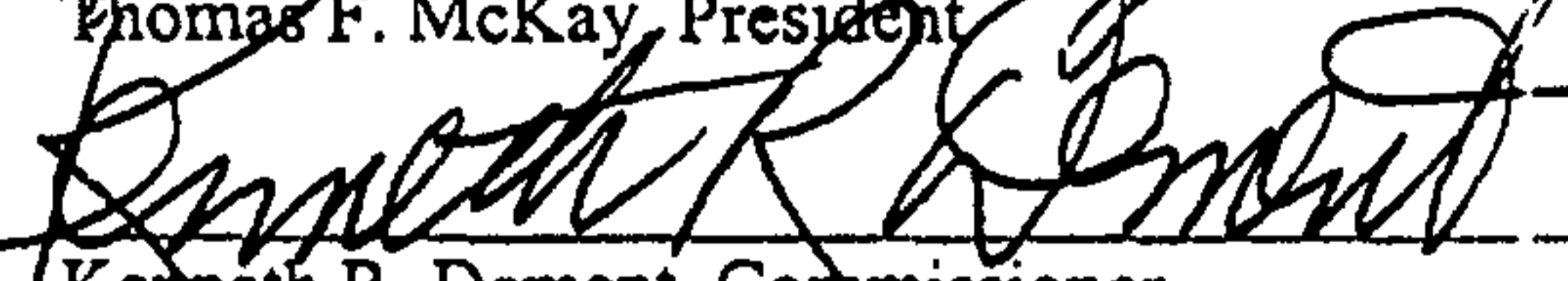
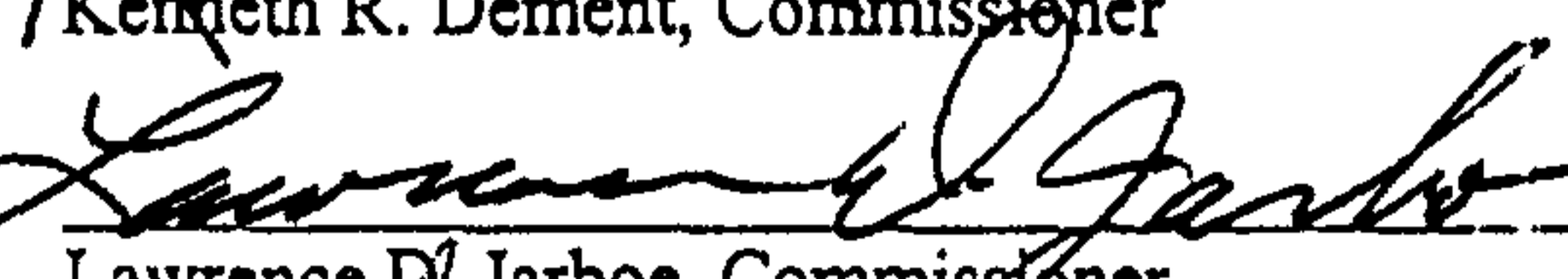
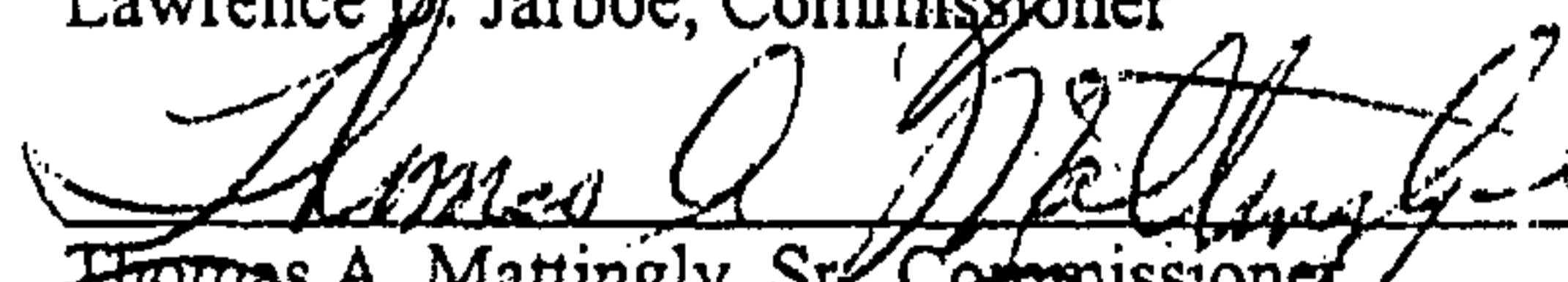
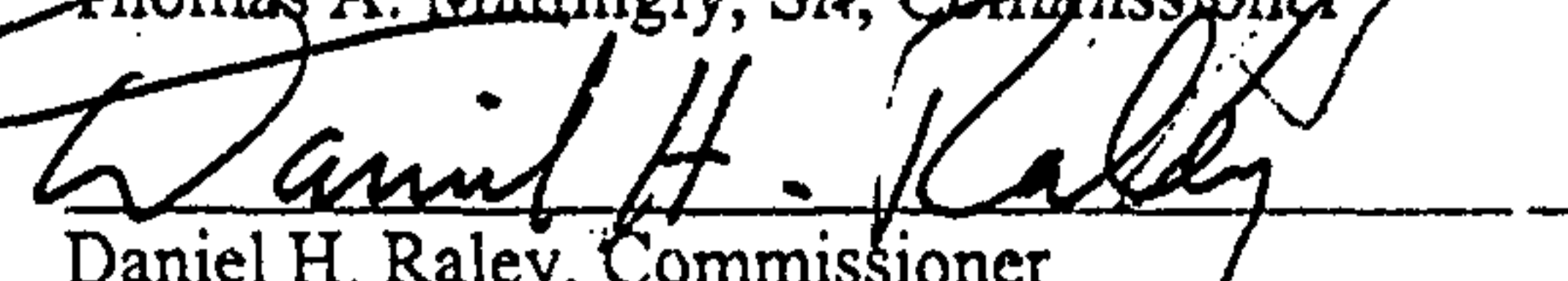
Those voting aye: all  
Those voting nay: \_\_\_\_\_  
Those abstaining or absent: \_\_\_\_\_  
Date of Adoption: 1/28/03  
Effective Date: 1/28/03

RECORDING FEE 0.00  
TOTAL 0.00  
Res#5062 Acpt#999999  
EWA REC DIR#4222  
Jan 31, 2003 02:15 PM

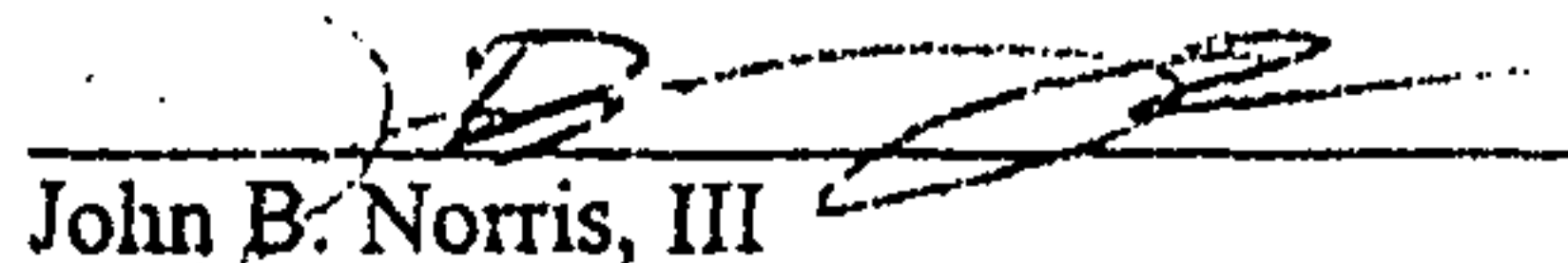
ATTEST:

  
Alfred A. Lacer  
County Administrator

BOARD OF COUNTY COMMISSIONERS FOR  
ST. MARY'S COUNTY, MARYLAND

  
Thomas F. McKay, President  
  
Kenneth R. Dement, Commissioner  
  
Lawrence D. Jarboe, Commissioner  
  
Thomas A. Mattingly, Sr., Commissioner  
  
Daniel H. Raley, Commissioner

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
John B. Norris, III  
County Attorney

**Purpose**

TO ESTABLISH THE DEPARTMENT OF LAND USE  
AND GROWTH MANAGEMENT AND DELEGATE  
RESPONSIBILITIES ASSIGNED TO THE PLANNING  
DIRECTOR PURSUANT TO LOCAL LAW UPON THE  
LEAVE OF THE CURRENT PLANNING DIRECTOR

RECORDING FEE 0.00  
TOTAL 0.00  
Res#SM02 Rcpt#999999  
SMA KEB 01K#4322  
Jan 31, 2003 02:16 PM

**RESOLUTION**

WHEREAS, the Board of Commissioners for St. Mary's County is interested in creating increased efficiencies and enhanced quality of service to our citizens, especially in the area of planning, development review and code inspection; and

WHEREAS, the Board of Commissioners for St. Mary's County has determined that merging the Departments of Planning and Zoning and Permits and Inspections will achieve the desired results with the appropriate leadership; and

WHEREAS, the Board of County Commissioners recognizes that the merger should proceed under the direction of the person selected to lead the new department, which person has not yet been selected; and

WHEREAS, during the interim period prior to the selection of the person who will lead the new department, the Department of Planning and Zoning and the Department of Permits and Inspections should continue to operate as they do today so as to provide the least interruption of services to the citizens; and

WHEREAS, these plans were espoused during open session on January 21, 2003 and this Resolution shall confirm the same.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners for St. Mary's County, that the Departments of Planning and Zoning, and Permits and Inspections shall continue to operate and serve the public until a new director for the combined and restructured departments, which shall bear the name the Department of Land Use and Growth Management, is selected and begins employment with the County.

BE IT FURTHER RESOLVED by the Board of County Commissioners for St. Mary's County, that the structuring of the Department of Land Use and Growth Management shall be further considered during the FY2004 budget process and may include additional responsibilities as a result thereof.

BE IT FURTHER RESOLVED by the Board of County Commissioners for St. Mary's County, that Jon R. Grimm, Planning Director, shall be released from County employment, his last date of reporting being March 21, 2003 and that, thereafter, the duties of the Planning Director as set forth in the St. Mary's County Comprehensive Zoning Ordinance, Subdivision Ordinance and all other local laws, shall be assumed by the Acting Planning Director until the Director of the Department of Land Use and Growth Management is selected.

BE IT FURTHER RESOLVED by the Board of County Commissioners for St. Mary's County, that the foregoing recitals are incorporated herein by reference.

Those voting aye: all

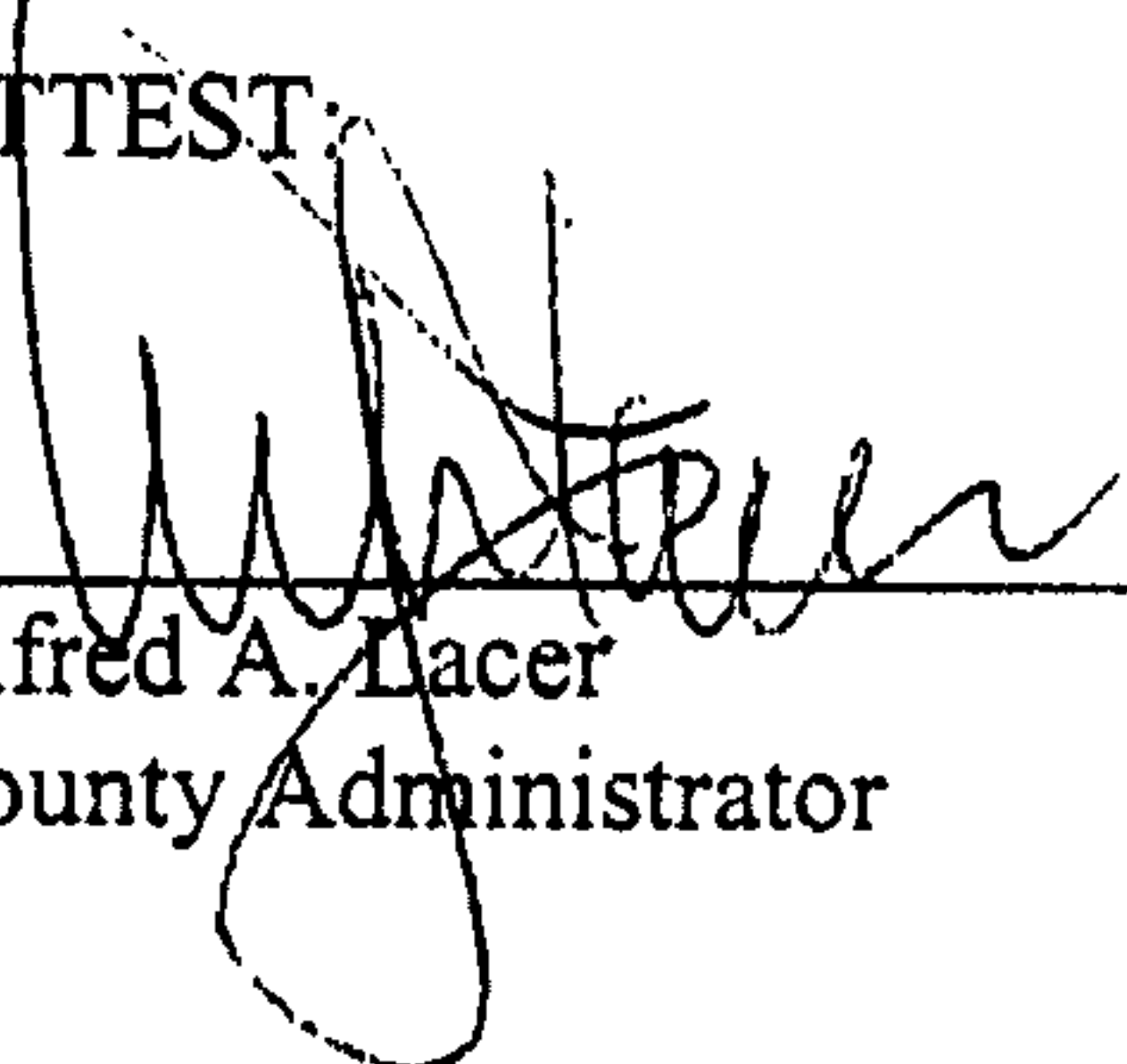
Those voting nay: \_\_\_\_\_

Those abstaining or absent: \_\_\_\_\_

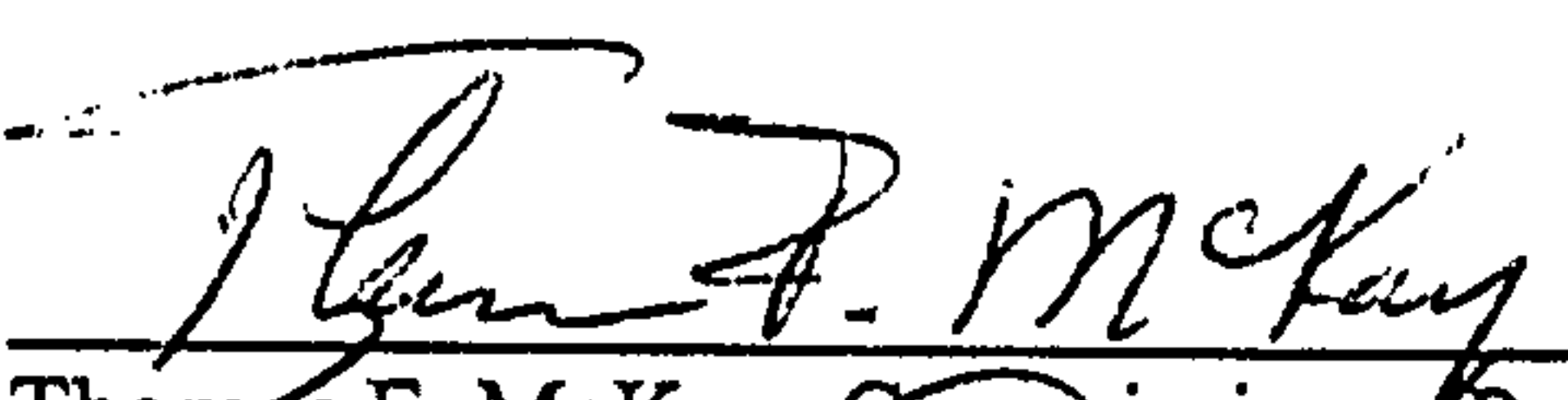
Approval Date: 1/28/03

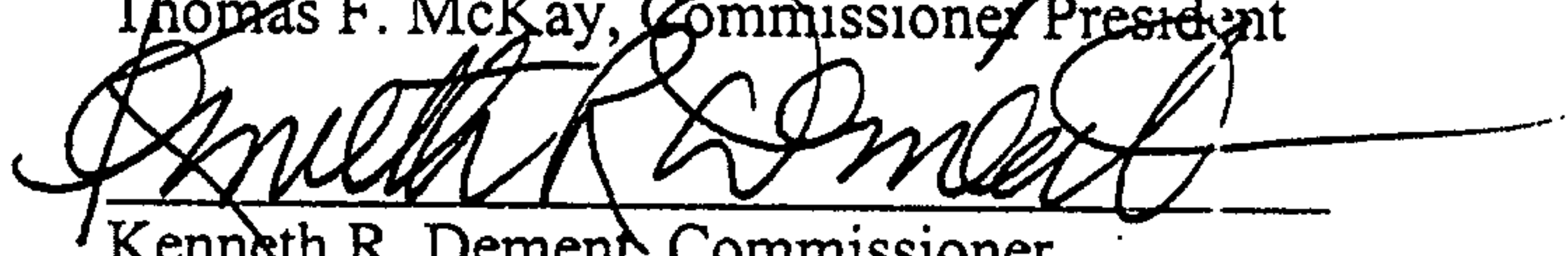
Effective Date: 1/28/03

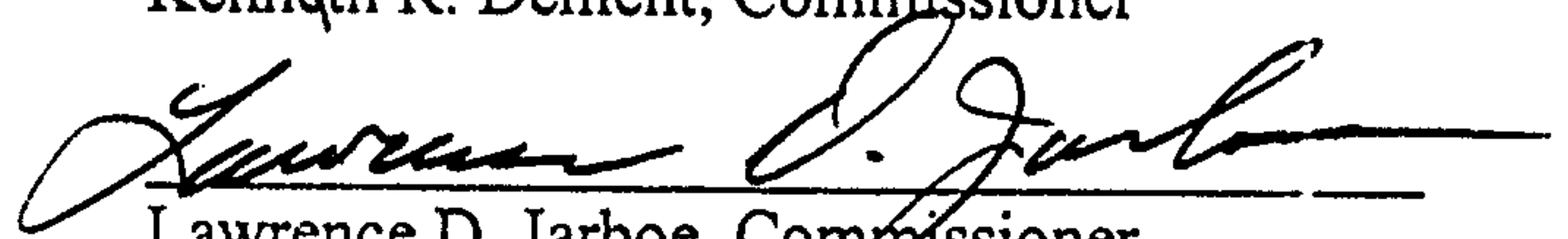
ATTEST:

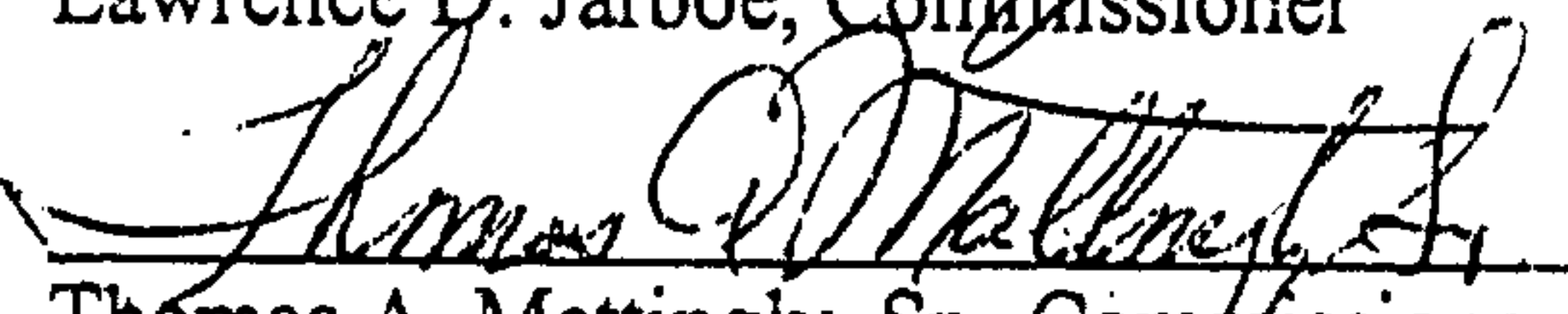
  
\_\_\_\_\_  
Alfred A. Lacer  
County Administrator

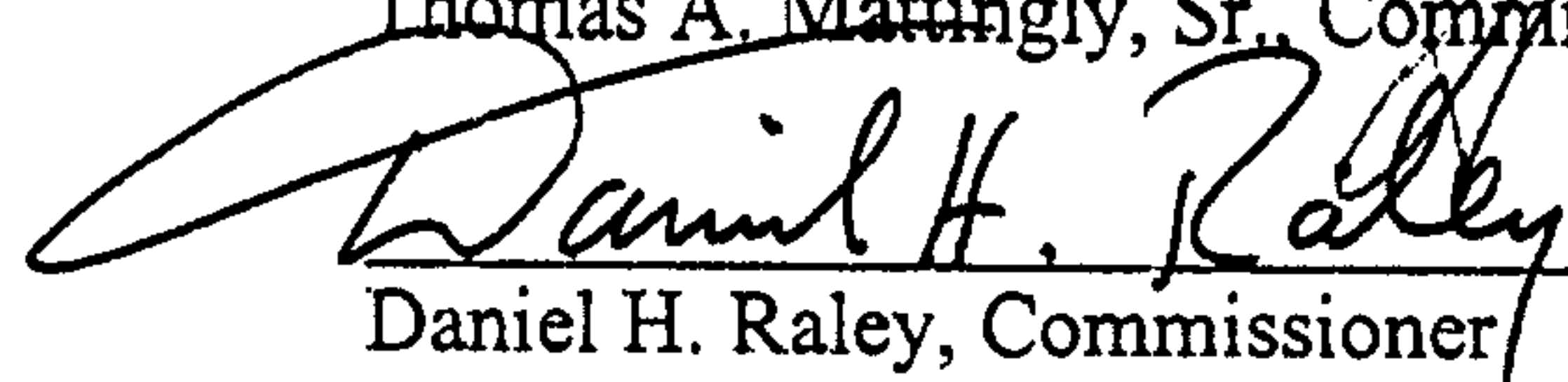
BOARD OF COUNTY COMMISSIONERS  
FOR ST. MARY'S COUNTY, MARYLAND

  
\_\_\_\_\_  
Thomas F. McKay, Commissioner, President


  
\_\_\_\_\_  
Kenneth R. Dement, Commissioner

  
\_\_\_\_\_  
Lawrence D. Jarboe, Commissioner

  
\_\_\_\_\_  
Thomas A. Mattingly, Sr., Commissioner

  
\_\_\_\_\_  
Daniel H. Raley, Commissioner

Approved as to form and legal  
sufficiency:

  
\_\_\_\_\_  
John B. Norris, III  
County Attorney

Subject: Amendment of the  
St. Mary's County Comprehensive  
Zoning Ordinance

LIBERO 0 2 4 PAGE 1 3

Page 1 of 2

**ORDINANCE**

**AN ORDINANCE FOR THE PURPOSE OF AMENDING THE ST.  
MARY'S COUNTY COMPREHENSIVE ZONING ORDINANCE  
AT CHAPTERS 52 AND 65**

RECORDING FEE 0.00  
TOTAL 0.00  
Rest#502 Rpt#99999  
EMA CSS B1K2176

**Recitals**

**WHEREAS**, *Article 66B* of the Maryland Annotated Code, as amended, empowers the Board of County Commissioners for St. Mary's County, Maryland to enact a zoning ordinance to promote the health, safety and welfare of St. Mary's County, and to provide for its administration, enforcement and amendment; and

Feb 19, 2003 09:24 am

**WHEREAS**, the St. Mary's County Planning Commission and the Board of County Commissioners for St. Mary's County, following due notice published in the December 27, 2002 and January 3, 2003 editions of The Enterprise, a newspaper of general circulation in St. Mary's County, held a public hearing on January 13, 2003 regarding the proposed amendment of Chapter 52 of the St. Mary's County Zoning Ordinance for the purpose of repealing Section 52.8.3 requiring the amortization and removal of off-premise, nonconforming signs and the amendment of Chapter 65, Section 65.2.6(i) to clarify the applicability of certain size restrictions for on-site real estate signs advertising residentially zoned property or uses and provide limitations for on-site real estate signs advertising non-residential zoned property or uses; and

**WHEREAS**, on January 27, 2003, in open session and pursuant to *Article 66B*, Section 3.05 of the Maryland Annotated Code, the St. Mary's County Planning Commission adopted Resolution 03-02, forwarding a recommendation to the Board of County Commissioners to adopt the proposed amendments to the St. Mary's County Comprehensive Zoning Ordinance; and

**WHEREAS**, all procedural requirements of *Article 66B* of the Maryland Annotated Code, as amended, with regard to preparation of the recommendation of the Planning Commission and subsequent action of the Board of County Commissioners for St. Mary's County, Maryland have been met; and

**WHEREAS**, upon due consideration of the comments of the public and staff, the recommendation of the St. Mary's Planning Commission and in furtherance of the public health, safety and welfare, it is in the best interest of the public health, safety and welfare of the citizens of St. Mary's County, Maryland, to adopt the amendments proposed to the St. Mary's County Comprehensive Zoning Ordinance, which shall otherwise remain in full force and effect.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners for St. Mary's County, Maryland that:

1. Section 52.8.3 of the St. Mary's County Comprehensive Zoning Ordinance is hereby repealed in its entirety.
2. Section 52.8.4 of the St. Mary's County Comprehensive Zoning Ordinance, as it is currently drafted, is hereby repealed in its entirety.
3. Chapter 52 of the St. Mary's County Comprehensive Zoning Ordinance is hereby amended to include new Section 52.8.3, which shall read as follows:
  - (3) **Reconstruction of a Damaged Nonconforming sign.** A nonconforming sign may be reconstructed as authorized by Section 52.5.
4. Section 65.2.6(i) of the St. Mary's County Comprehensive Zoning Ordinance is repealed in its entirety and readopted as follows:
  - i. **Real Estate Signs.**
    - (1) On-site real estate signs advertising residential zoned property or uses less than five square feet with no more than one sign per lot.
    - (2) On-site real estate signs advertising non-residential zoned property or uses thirty-two (32) square feet or less with no more than one sign per lot.
    - (3) Up to five temporary off-site directional signs including portable and A-frame signs up to five square feet per side for advertisement of a real estate "open house." These signs shall

be removed with in 24 hours of the conclusion of the open house and shall meet the following requirements.

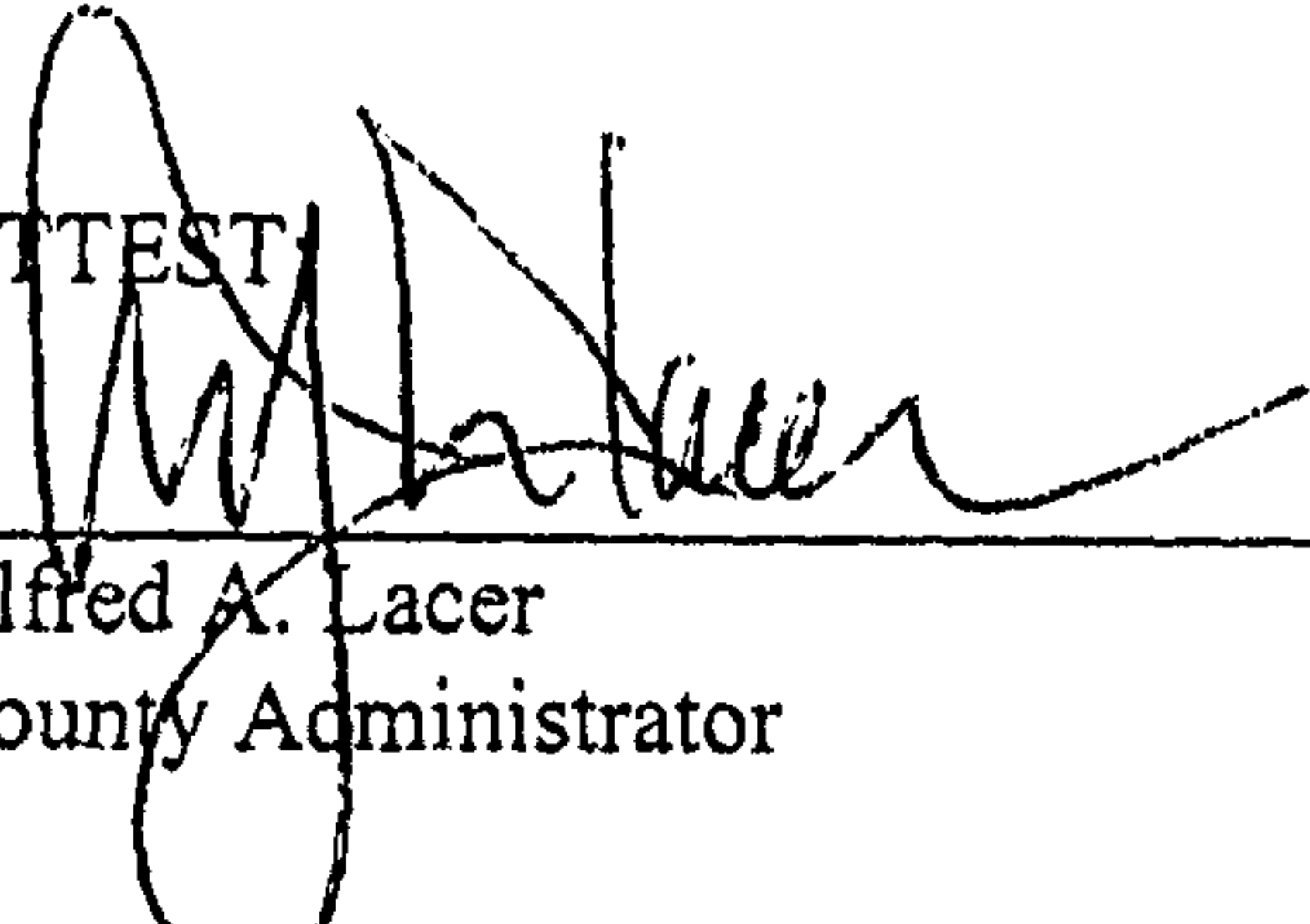
- (a) Signs shall not be located in a way that interferes with traffic visibility.
- (b) Signs shall not be in the median of any divided highway or any other public right of way.
- (c) Signs may be placed after 4:00 p.m. on Friday (Thursday prior to a Friday holiday) and are to be removed by 8:00 a.m. Monday (Tuesday following a Monday holiday).
- (d) Signs shall not be attached to utility poles or county or state sign post.
- (e) Directional real estate signs may not be larger that 24 inches square.
- (f) No more than two signs may be placed at an intersection by any one entity.

**BE IT FURTHER ORDAINED**, by the Board of County Commissioners for St. Mary's County, Maryland that the foregoing amendments to the St. Mary's County Comprehensive Zoning Ordinance shall be effective upon the date written below.

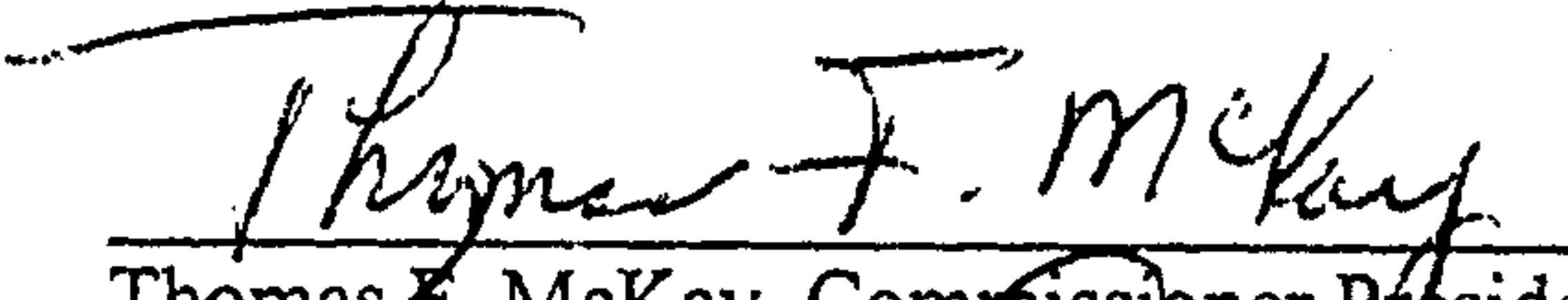
**BE IT FURTHER ORDAINED**, by the Board of County Commissioners for St. Mary's County, Maryland that in the event any portion of the St. Mary's County Comprehensive Zoning Ordinance is found to be unconstitutional, illegal, null or void it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the Ordinance shall be enforceable and valid.

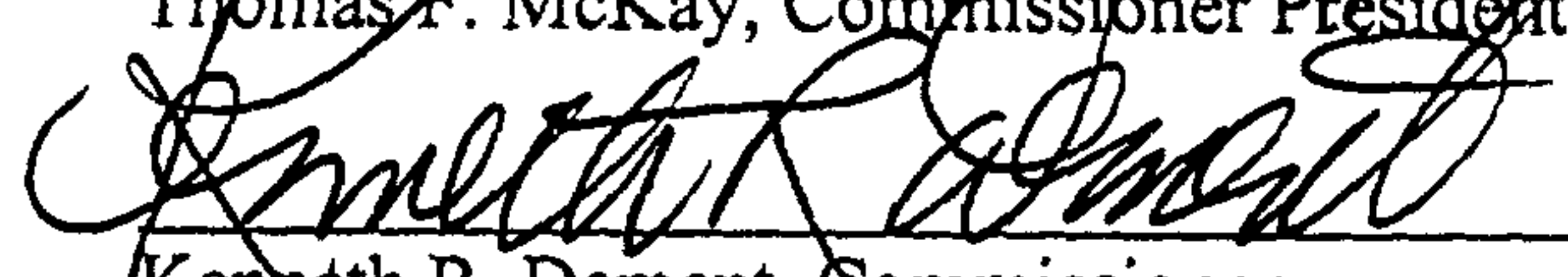
**BE IT FURTHER ORDAINED**, by the Board of County Commissioners for St. Mary's County, Maryland that the foregoing recitals are adopted as if fully rewritten herein.

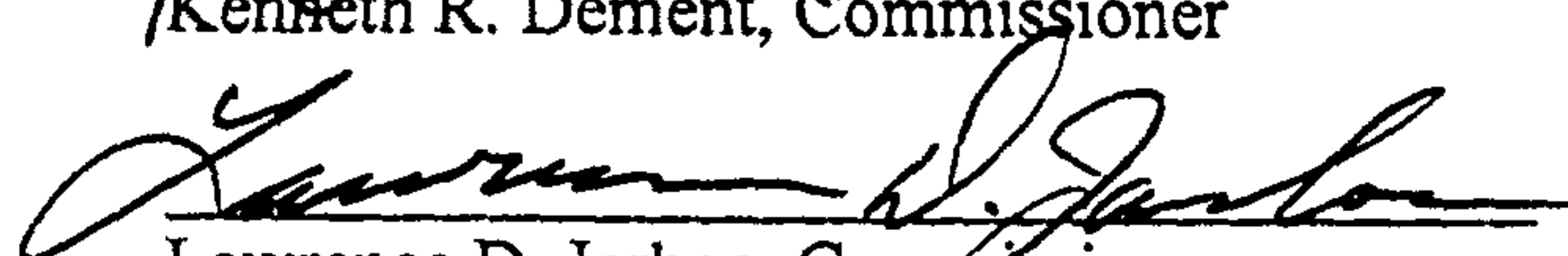
Those voting Aye: all  
 Those voting Nay: \_\_\_\_\_  
 Date of Adoption: February 4, 2003  
 Effective Date: 2/4/03

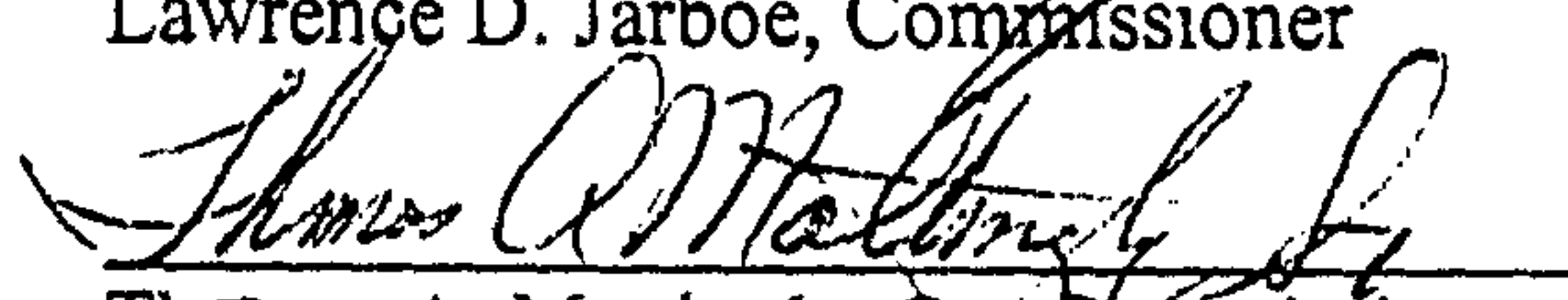
ATTEST  
  
 Alfred A. Lacer  
 County Administrator

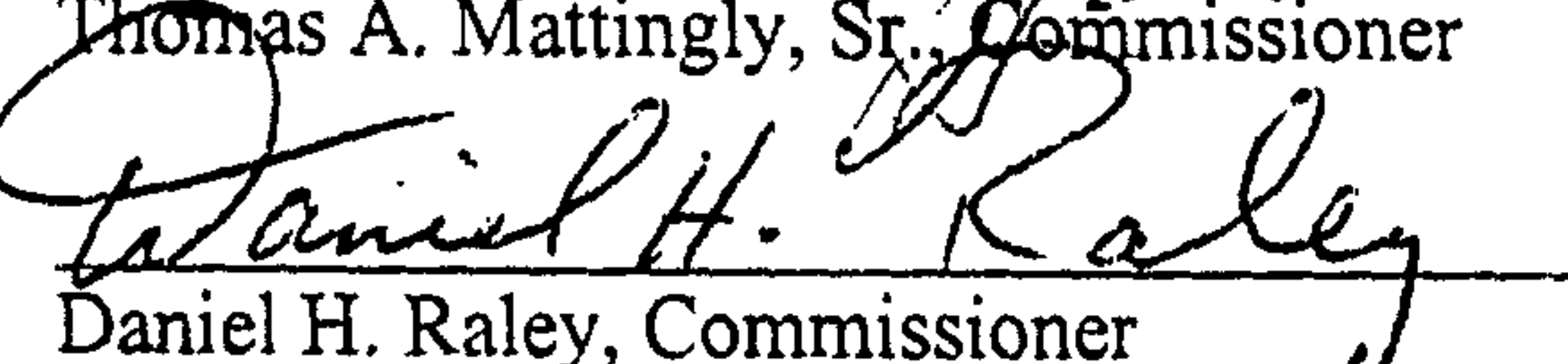
**BOARD OF COUNTY COMMISSIONERS  
 FOR ST. MARY'S COUNTY, MARYLAND**


  
 Thomas F. McKay, Commissioner President

  
 Kenneth R. Dement, Commissioner

  
 Lawrence D. Jarboe, Commissioner

  
 Thomas A. Mattingly, Sr., Commissioner

  
 Daniel H. Raley, Commissioner

Approved as to form and legal  
 sufficiency:  
  
 John B. Norris, III  
 County Attorney



**ST. MARY'S COUNTY GOVERNMENT**

DEPARTMENT OF PLANNING AND ZONING

P. O. BOX 653 • 22740 WASHINGTON STREET • LEONARDTOWN, MARYLAND 20650

**Memorandum**

**To:** Board of County Commissioners  
**From:** Jon R. Grimm, Director *Jon*  
**Date:** January 29, 2003  
**Re:** Amendment to Chapter 52 and 65 of the Comprehensive Zoning Ordinance

LIBERO 024 PAGE 15

On January 13, 2003 the Board conducted a joint public hearing with the Planning Commission to consider amendments to Chapter 52 and Chapter 65 (relating to signs) of the St. Mary's County Comprehensive Zoning Ordinance.

Chairperson John Taylor closed the Planning Commission hearing, leaving the record open for 10 days for written comment, or until close of business on January 23, 2003. Commissioner President McKay closed the County Commissioners' hearing, leaving the record open for 15 days, or until close of business on January 28, 2003.

Please find enclosed the revisions to Sections 52.8.3 (delete entirely), 52.8.4 and Section 65.2.i.(1) & (2) of the Comprehensive Zoning Ordinance, a copy of the minutes from the joint public hearing, a signed resolution transmitting the Planning Commissions' recommendation, the comments that were received during the open record period and a draft Ordinance for the Boards' action.

Should you have any questions or need additional information, please let me know.

cc: Al Lacer, County Administrator  
John Norris, County Attorney

~~LINE 0024 PAGE 1 b~~

1 2. Lots that are unbuildable without a variance due to the environmental constraints of Chapter 71  
2 may sell a development right according to Chapter 26 (TDRs).

3 3. Projects receiving approvals prior to the effective date of this Ordinance may proceed in  
4 accordance with Chapter 27.

5 **52.8. Nonconforming Signs.**

6 1. *Continuation and Maintenance of Nonconforming Signs.* Routine maintenance and repairs may  
7 be performed on nonconforming signs.

8 2. No nonconforming sign shall be altered or reconstructed so as to increase the discrepancy between  
9 existing conditions and the standards for front yards, buffer yards, side yards, rear yards, height of  
10 structures, distances between structures, driveways, or open space prescribed in the regulations for  
11 the district in which the sign is located. No nonconforming sign or its structural components, shall  
12 be moved or enlarged unless the new location or enlargement shall conform to the standards for  
13 front yards, side yards, rear yards, height of structures, distances between structures, driveways,  
14 open space or signs prescribed in the regulations for the district in which the sign is located.  
15 Changes in text and graphics on a nonconforming sign are permitted provided the sign is not  
16 structurally altered, enlarged, or moved.

17 ~~3. Elimination of Off-Premise Nonconforming Signs.~~

18 ~~a. All off-premise signs shall come into compliance with the requirements of this Ordinance or be~~  
19 ~~removed in accordance with an amortization schedule of seven years from the date of the~~  
20 ~~adoption of this Ordinance or the end of the current term of any ground lease for the sign,~~  
21 ~~whichever first occurs. No site plan or subdivision plat may be finally approved unless~~  
22 ~~all nonconforming signs on the property are brought into full compliance with this~~  
23 ~~Ordinance or, in the case of an off-premise sign that is on the property pursuant to a lease~~  
24 ~~with a third party, the applicant executes an enforceable agreement with the County to~~  
25 ~~remove the sign within 30 days of the end of the current term of the lease. All such~~  
26 ~~agreements shall be approved by the County Attorney as to form and sufficiency.~~

27 ~~b. Options for Eliminating Nonconformity. Within three months of notification by the Planning~~  
28 ~~Director of a nonconformity for which the amortization period has expired, the owner of~~  
29 ~~a nonconforming sign shall either:~~

30 ~~(1) Remove the sign; or~~

31 ~~(2) Modify the sign to achieve conformity with this Ordinance.~~

32 ~~4.3. *Reconstruction of a Damaged Nonconforming Sign.* A nonconforming sign may be~~  
33 ~~reconstructed as authorized by Section 52.5; however, no extension of the amortization period set~~  
34 ~~forth above shall be granted for the reconstruction of a damaged, nonconforming sign.~~



LIBER 0024 PAGE 17  
b. **Farm Marketing Signs.**

- (1) On-premises advertising, not exceeding 32 square feet, for farm marketing operations where farmers sell directly to the public only those farm or fisheries products they have harvested themselves and advertising for "pick-your-own" products.
- (2) Off-premise advertising not exceeding 24 square feet for farm marketing operations where farmers sell directly to the public only those farm or fisheries products they have harvested themselves and advertising for "pick-your-own" products for a farm that does not have frontage along a public road.

c. **Inspection Signs.** One official State Motor Vehicle Administration inspection sign constructed of a permanent material for each type of inspection service offered on-site, located flat against the wall of a building where such services are provided and not exceeding four square feet in area.

d. **Miscellaneous Signs.**

- (1) Credit card, trading stamp, or trade association signs not exceeding 0.5 square foot each.
- (2) Governmental flags not intended for commercial purposes.
- (3) Holiday lights and displays not advertising a product or sale that are in place for no more than 60 consecutive days per year.
- (4) Nameplates not over two square feet in area, displaying the name and profession of the occupant of the building and/or the address.
- (5) Works of art not intended for advertising.

e. **Notices and Public Information Signs.**

- (1) Official notices of or required by any court or public body or officer and notices posted by a utility or other quasi-public agent in the performance of a public duty or by any person giving due legal notice.
- (2) Public transit seating signs and public information, directional, and warning signs erected by a public agency.

f. **Parking and Directional Signs.** On-premise parking and other directional signs not exceeding one double-faced sign per entrance that is not more than six square feet in area and four feet in height, or 12 square feet in area and four feet in height if the entrance is more than 100 feet from a public road.

g. **Political Campaign Signs.** Temporary political campaign signs not greater than 32 square feet in size may be erected in all districts. Illuminated political campaign signs are prohibited and shall not be affixed to any public structure or erected in the public right-of-way. Political campaign signs may not be erected more than 45 days prior to the election, and shall be removed within 15 days after the primary election if the candidate is not a candidate in the general election. All remaining political signs shall be removed within 15 days after the general election.

h. **Product Signs.** Signs manufactured as a standard, integral part of a mass-produced product accessory to a commercial or public or semipublic use, including telephone booths, vending machines, automated teller machines, and gasoline pumps.

i. **Real Estate Signs.**

- (1) On-site real estate signs advertising residential zoned property or uses less than five square feet with no more than one sign per lot.

LICEN 0024 PAGE 18

- 1 (2) On-site real estate signs advertising non-residential zoned property or uses  
2 thirty-two square feet or less with no more than one sign per lot.
- 3 (~~2~~)(3) Up to five temporary off-site directional signs including portable and A-  
4 frame signs up to five square feet per side for advertisement of a real estate  
5 "open house." These signs shall be removed within 24 hours of the conclusion  
6 of the open house and shall meet the following requirements.
- 7 (a) Signs shall not be located in a way that interferes with traffic visibility.  
8 (b) Signs shall not be in the median of any divided highway or any other  
9 public right of way.  
10 (c) Signs may be placed after 4:00 p.m. on Friday (Thursday prior to a  
11 Friday holiday) and are to be removed by 8:00 a.m. Monday (Tuesday  
12 following a Monday holiday).  
13 (d) Signs shall not be attached to utility poles or county or state sign post.  
14 (e) Directional real estate signs may not be larger than 24 inches square.  
15 (f) No more than two signs may be placed at an intersection by any one  
16 entity.

17 **65.3. Regulations for On-Premise Signs.**

- 18 1. The following regulations apply to all nonexempt, on-site signs that are visible from a public  
19 right-of-way.
- 20 a. No on-premise sign shall exceed the height limits established for that sign type.
- 21 b. *Maximum Total Sign Area.* The maximum total sign area per site, excluding temporary  
22 signs and exempt signs, shall be as set forth in Schedule 65.3. Each face of a sign shall  
23 be counted when computing the total sign area for a site except that, when two sign faces  
24 are placed back to back so that both faces can not be viewed from any point at the same  
25 time and each contains identical text and graphics, the area of only one side shall be  
26 counted when computing the area of that sign. No sign or sign area permitted on one  
27 frontage shall be transferred to another frontage except in accordance with a Master Sign  
28 Plan.

**MINUTES OF THE ST. MARY'S COUNTY PLANNING COMMISSION MEETING  
ROOM 14 \* GOVERNMENTAL CENTER \* LEONARDTOWN, MARYLAND  
Monday, January 13, 2003**

Members present were Frank Taylor, Chairperson; Jim Raley, Vice Chair; Lawrence Chase, Larry Greenwell, Julie King, John F. Taylor, Sr., and newly appointed members Steve Reeves and Joseph St. Clair. DPZ staff present were Jon Grimm, Director; Chad Holdsworth, Capital Facilities Planner; and Peggy Childs, Recording Secretary. County Attorney John B. Norris, III was also in attendance.

A list of attendees is on file in DPZ. The Chair called the meeting to order at 6:38 p.m.

**ELECTION OF OFFICERS**

Outgoing Chairperson Frank Taylor called for nominations for the chairmanship. Jim Raley nominated John F. Taylor, Sr. The motion was seconded by Larry Greenwell and passed by 7-0.

As outgoing Vice Chair, Jim Raley thanked Mr. Frank Taylor for his 10 years of service on the Planning Commission on behalf of the members and of staff, and presented him with a Proclamation, a gavel, and a photo of the 1995 Planning Commission, of which he was a member.

Mr. John Taylor assumed the chair, asking for nominations for Vice Chair. Joe St. Clair nominated Jim Raley as Vice Chair, but Mr. Raley declined for personal reasons, nominating Larry Greenwell. Mr. Chase seconded the motion, and Mr. Greenwell was elected Vice Chair by unanimous vote.

**APPROVAL OF MINUTES**

The minutes of December 9, 2002 were approved as recorded.

**COUNTY COMMISSIONERS / PLANNING COMMISSION PUBLIC HEARINGS**

**Amendments to the Comprehensive Zoning Ordinance (ZO #02-01)**

Chapter 52: Nonconforming Uses, Structures and Signs

Chapter 65: Amortization of Signs and Temporary Real Estate Signs

Legal Ad published in The Enterprise on 12/27/02 & 01/03/03

The Planning Commission and the Board of County Commissioners held concurrent public hearings on the proposed amendments. County Commissioners Thomas McKay, Kenny Dement, Larry Jarboe, Tommy Mattingly and Dan Raley were present, as was County Administrator Al Lacer. Mr. John Taylor opened the Planning Commission hearing; Commissioner Present Thomas McKay opened the County Commissioners' hearing. As proposed, the amendments will delete Section 52.8.3, Lines 17-31 on Page 52-4 of the Ordinance; i.e., Elimination of Off-Premise Nonconforming Signs, and the portion of Section 52.8.4 which states that no extension of the amortization period shall be granted for the reconstruction of a damaged, nonconforming sign.

The proposed amendments to Section 65.2.i.(1) will add language limiting permitted on-site real estate signs of less than 5 square feet to those advertising residentially-zoned property or uses. A new paragraph, 65.2.i.(2), is proposed to permit on-site real estate signs of 32 square feet or less, to advertise non-residentially zoned property, with no more than one sign per lot.

The hearing was opened to public comment. Walter Burch offered the only comments made, urging the two boards to read the Eller Media vs. Montgomery County case and not to overreact. Mr. Burch said sign companies throughout the country sue jurisdictions as a method of intimidation, and Montgomery County has been in litigation with Eller Media for 20 years. He challenged Mr. Grimm's 12/12/02 memorandum which states that removing the signs would cost over \$100,000 per sign, saying the Montgomery County Attorney told him today that he was surprised St. Mary's County was moving so quickly and that Montgomery County has agreed to \$470,000 for 34 signs, which comes to about \$13,000 per sign. The Court of Special Appeals has remanded the valuation of the leasehold to a lower court, and no determination of value has been made except for Eller Media's, which is extremely elevated. Mr. Burch asked that the Commissioners direct staff to prepare an inventory of how many nonconforming off-premise signs we have, and which of those are legal or illegal. He said Eller Media has 10 billboard structures with 24 signs in this county; four of the billboard structures are questionable as to legality of the permits and one has been abandoned, and these should be eliminated before, somehow, they become legal.

There were no further public comments. Commissioner McKay urged all members to review the list of signs to see if they are impacted personally and whether they should recuse themselves.

Chairperson John Taylor closed the Planning Commission hearing, leaving the record open for 10 days for written comment, or until close of business on January 23, 2003. Commissioner McKay closed the County Commissioners' hearing, leaving the record open for 15 days, or until close of business on January 28, 2003.

**RECOMMENDATION**

**CWSP #00-130-015 – Lexington Park Christian School**

Requesting a Comprehensive Water & Sewerage Plan Amendment to amend Map IV-50, changing the sewer category from NPS (No Planned Service) to S-3D (service in 3-5 years, developer financed). The subject property contains 49.2 acres plus an approximate 4-5 acre sliver between the school property and the Callaway Village Center, is zoned RPD, and is located on the north side of MD 5, approximately 2,000 feet east of MD 249; Tax Map 50, Block 17, Parcel 38.

This public hearing was conducted on December 9, 2002, with the record held open for 10 days for written comment. The only written comment submitted was from Mr. DePiazza on behalf of the Lexington Park Christian School, requesting approval of the water and sewer amendment. Staff also recommends approval, contingent upon an amendment of the Comprehensive Plan to include the subject property within the Callaway Village Center, which is being processed concurrently.

Mr. Chase moved that the Commission forward a recommendation to the Board of County Commissioners to amend the sewer service category from NPS to S-3D, as requested, contingent upon an amendment of the Comprehensive Plan to include the property in the Callaway Village Center. Seconded by Jim Raley and passed by 5-0-2. Newly appointed members Steve Reeves and Joe St. Clair did not participate in the public hearing and abstained from voting. A Resolution setting forth the recommendation was signed by the 5 voting members

**COMPREHENSIVE WATER & SEWERAGE PLAN UPDATE**


Staff provided a timeline for the adoption of the 2003 Comprehensive Water & Sewerage Plan Update, with adoption and transmission to the State scheduled for September 2003. Staff will return with a draft update in March of this year.

**6-YEAR CAPITAL IMPROVEMENTS PROGRAM RECOMMENDATION**

Scheduled for the January 27, 2003 meeting.

**ADJOURNMENT**

The meeting was adjourned by 7:25 p.m.

  
 \_\_\_\_\_  
 Peggy Childs  
 Recording Secretary

Approved in open  
 session: January 27, 2003

\_\_\_\_\_  
 John F. Taylor, Sr.  
 Chairperson

Subject: AMENDMENT OF CHAPTERS 52 & 65  
OF THE ST. MARY'S COUNTY  
COMPREHENSIVE ZONING ORDINANCE

LIBERO 024 PAGE 21

RESOLUTION OF THE PLANNING COMMISSION  
FOR ST. MARY'S COUNTY

WHEREAS, after due notice, on January 13, 2003, this Planning Commission conducted a joint public hearing with the Board of County Commissioners for St. Mary's County to consider the amendment of Chapter 52 of the St. Mary's County Comprehensive Zoning Ordinance to delete Section 52.8.3 and amend Section 65.2 of Chapter 65 of the St. Mary's County Comprehensive Zoning Ordinance to permit the advertisement of property vacancies and properties for sale, lease, *et cetera*, all as proposed by staff; and

WHEREAS, public comment was received and all persons wishing to be heard expressed their opinions regarding the proposed amendment; and

WHEREAS, after contemplation of the comments of the public, written and oral, and of staff, the consideration of the far-reaching breadth of the provision and the uncertainty regarding fiscal impact to the County, it is deemed to be in the best interest of the County to delete Section 52.8.3 of the St. Mary's County Comprehensive Zoning Ordinance; and

WHEREAS, after consideration of amendment of Section 65.2, this Planning Commission finds the amendment of Section 65.2 of the St. Mary's County Comprehensive Zoning Ordinance as proposed by staff furthers the purpose of property identification for real estate sales within appropriate limitations.

NOW, THEREFORE, BE IT RESOLVED, that the St. Mary's County Planning Commission hereby recommends to the Board of County Commissioners for St. Mary's County the deletion of Section 52.8.3 of the St. Mary's County Comprehensive Zoning Ordinance and the amendment of Section 65.2 of the St. Mary's County Comprehensive Zoning Ordinance as recommended by staff.

BE IT FURTHER RESOLVED, that the foregoing recitals are hereby incorporated by reference.

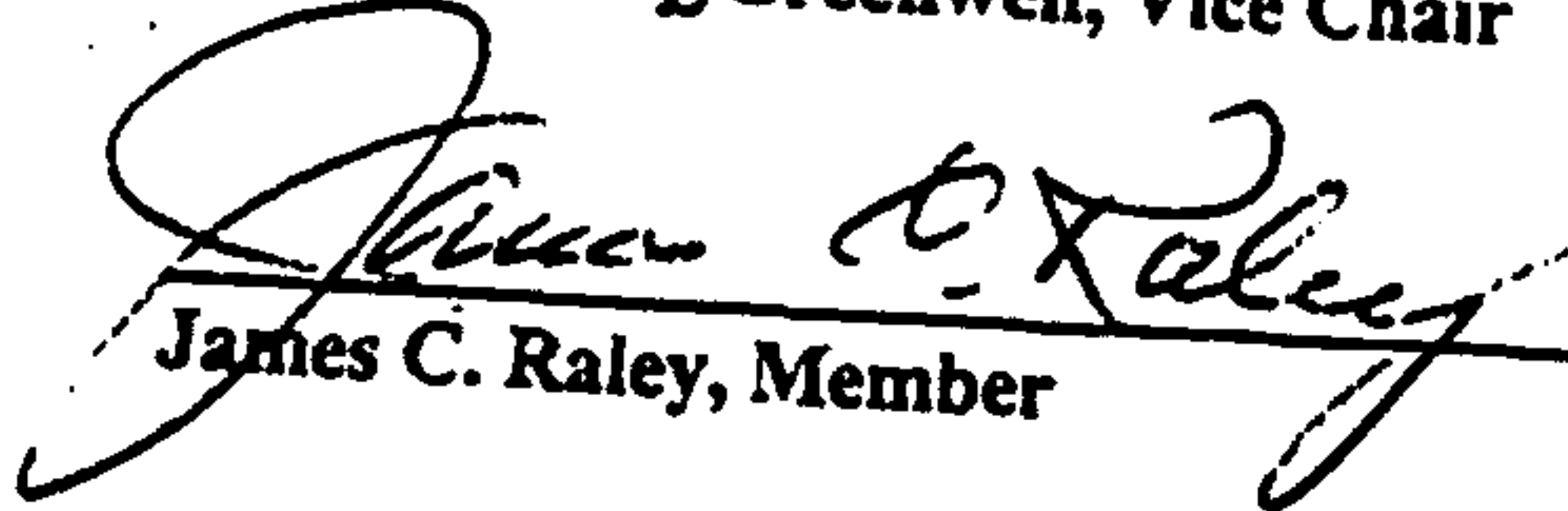
This Date: January 27, 2003


ST. MARY'S COUNTY PLANNING COMMISSION

  
John F. Taylor, Chairperson

  
Thomas Larry Greenwell, Vice Chair

  
Lawrence A. Chase, Member

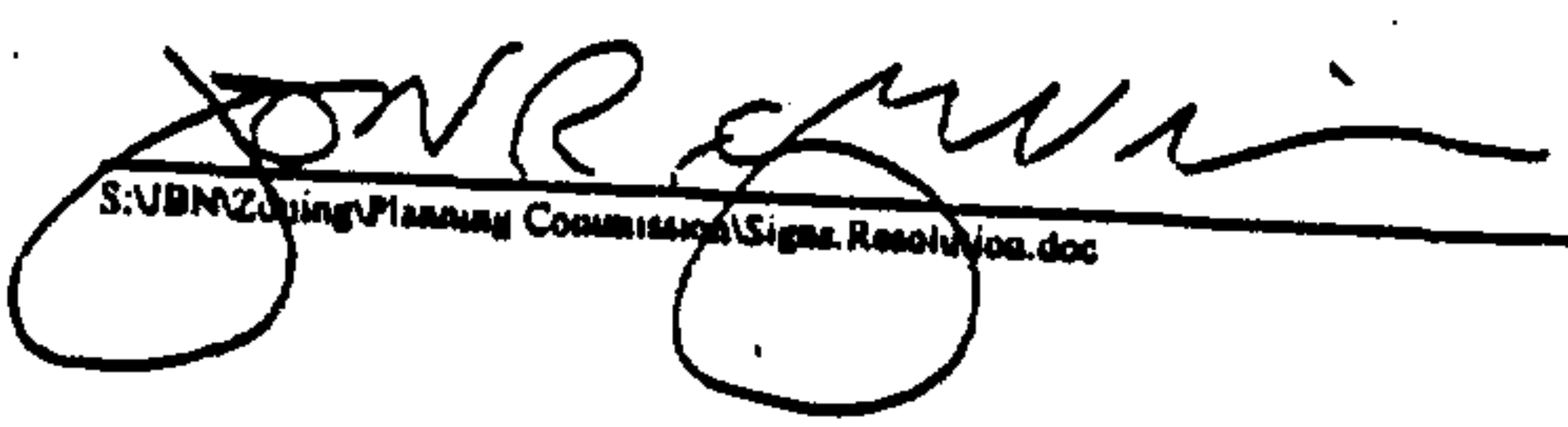
  
James C. Raley, Member

  
Julia A. King, Member

  
Stephen T. Reeves, Member

Recused  
Joseph A. St. Clair, Member

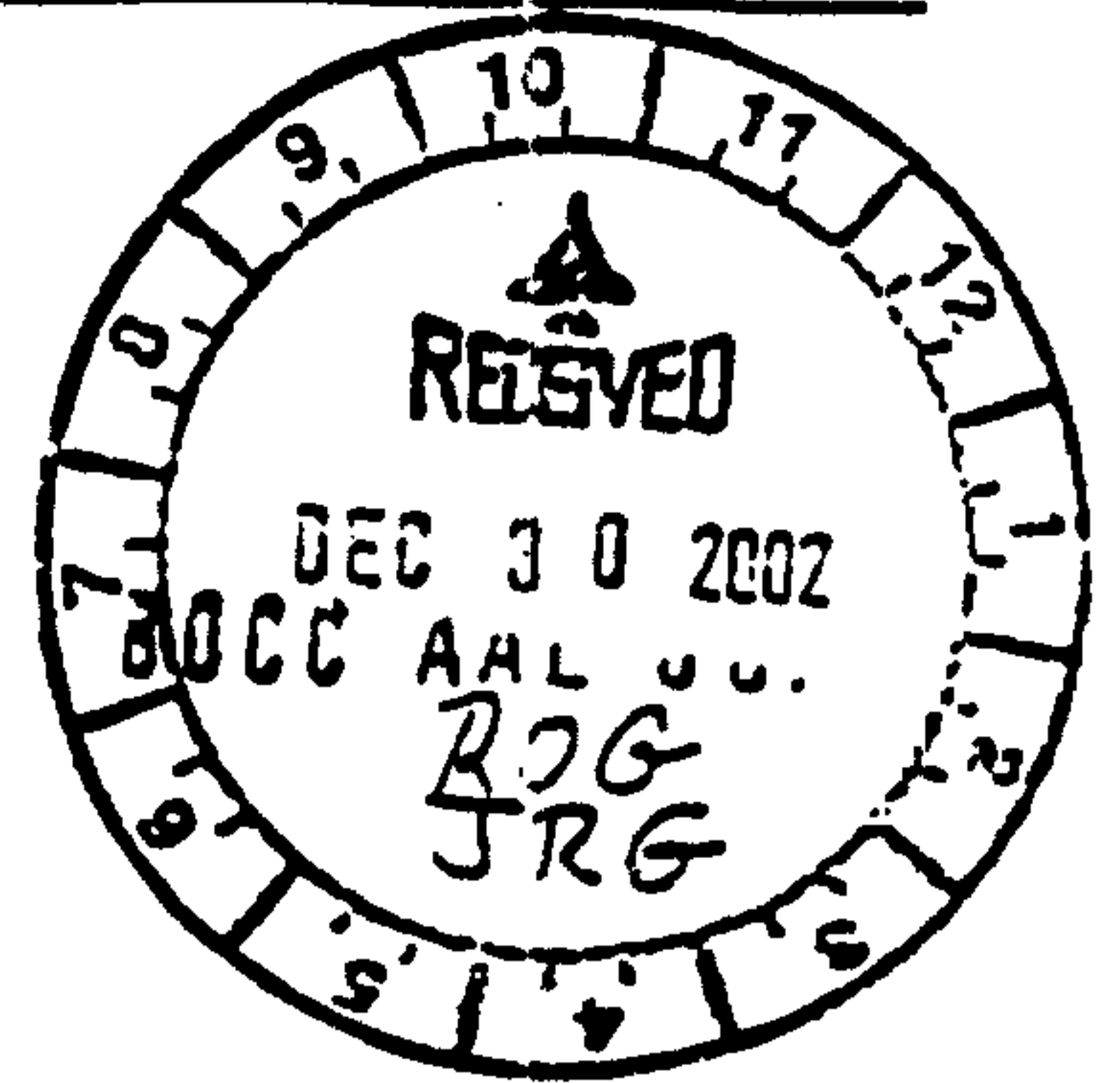
Attest:

  
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December 27, 2002

Board of County Commissioners  
P. O. Box 653  
Governmental Center, 23115 Leonard Hall Drive  
Leonardtown, MD 20650 - 0653

LIBERO 0 2 4 PAGE 2 2



**RE: Zoning Ordinance: Section 52.8.3**

Dear Commissioners:

As a former Vice President of Design and Construction for one of Clear Channels' New York offices, and a defacto constituent of Commissioner Raley's district, I have closely followed the progress of "Section 52.8.3"

In similar cases around the country, most municipalities "Grandfather" pre-existing advertising signs through perpetuity or as long as the existing ground-lease provides. The signs are then classified as "legal non-conforming signs" and remain as such for as long as their structural composition does not change.

This moratorium process allows two crucial advantages; first, there is an immediate halt to building new non-conforming billboard (outdoor advertising) structures; and second, as each billboard lease matures and expires, and/or the infrastructure of the sign requires maintenance, it becomes the responsibility of the property owner or outdoor advertising company to bring the structure into code compliance.

As a representative of big-box retailers, in the past year I have appeared before Planning and Architectural Review Boards in 18 different states. Most, if not all municipalities attempt to reduce the signage proliferation across their landscapes. To accomplish this, towns and cities successfully invoke increased setbacks (distances from arterial highways, parks and residential areas), height restrictions, quantity limits and revised land use designations. But, almost in every case, the caveat is a requirement of "Grandfathering" or moratorium period for pre-existing legal conforming signage.

With respect to the "Maryland Annotated Code", it would be egregious to the citizens of the county to bare the expense of removing any lawfully erected signage.

Respectfully,

Rodney Barnes  
Managing Director

**RECEIVED**  
DEC 31 2002

ST. MARYS COUNTY  
DEPT. OF PLANNING & ZONING

C: Mr. Rick Boyd, The Enterprise

SUBJECT: GRANT OF CABLE FRANCHISE

**PURPOSE**

AN ORDINANCE GRANTING A NON-EXCLUSIVE CABLE TELEVISION FRANCHISE TO GANS MULTIMEDIA PARTNERSHIP, AND GANS COMMUNICATIONS, L.P., TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE SYSTEM WITHIN ST. MARY'S COUNTY, MARYLAND PURSUANT TO AND SUBJECT TO THE PROVISION OF ORDINANCE NO. 03- 02 PASSED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. MARY'S COUNTY, MARYLAND ("County") ON FEBRUARY 18, 2003.

RECORDING FEE 0.00  
TOTAL 0.00

**RECITALS**

WHEREAS, Article 25, Section 3(c) of the Maryland Annotated Code provides authority to the Board of County Commissioners for St. Mary's County, Maryland, to grant a franchise for the provision of cable television service in St. Mary's County; and

WHEREAS, on January 7, 2003, staff presented for discussion to the Board of County Commissioners a copy of the draft Cable Systems and Open Video Systems Ordinance as well as a draft Cable Franchise Agreement Between St. Mary's County, Maryland, Gans Multimedia Partnership, and Gans Communications, L.P.; and

Reg#0M02 Rec#0999999  
EVA CSS BIK#3612  
Feb 27, 2003 12:42 PM

WHEREAS, on February 4, 2003, the Board of County Commissioners conducted a public hearing to receive comments on the draft Cable Systems and Open Video Systems Ordinance and the draft Cable Franchise Agreement Between St. Mary's County, Maryland, Gans Multimedia Partnership, and Gans Communications, L.P. a notice of the public hearing being published in accordance with applicable laws; and

WHEREAS, after considering staff input and public comment, the Board of County Commissioners has determined the need to revise and update the existing Cable Television System Franchise Ordinance of October 2, 1990; and have determined that adopting a new ordinance prescribing procedures and requirements relating to cable television franchises to reflect changes in applicable law and to better ensure the use of public rights-of-way by cable systems will better serve the public interest.

WHEREAS, after negotiations, Gans Multimedia Partnership, and Gans Communications, L.P., ("Franchisee") and the County have agreed, pursuant to applicable law, on the terms of a new franchise agreement.

THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY:

SECTION 1. Subject to the terms and conditions of the attached Franchise Agreement and Ordinance 03- 02, the County hereby grants the Franchisee a franchise to own, construct, reconstruct, operate and maintain a cable system along the public rights-of-way within the franchise area specified therein for the sole purpose of providing cable service.

SECTION 2. The attached Franchise Agreement between the County and Gans Multimedia Partnership and Gans Communications, L.P. is hereby authorized and approved, and the President of the County Commissioners for St. Mary's County is hereby authorized and directed to execute all documents necessary to effectuate the Agreement.

SECTION 3. This Resolution shall take effect from the date set forth below as the "Effective Date."

Those voting Aye: All

Those voting Nay: \_\_\_\_\_

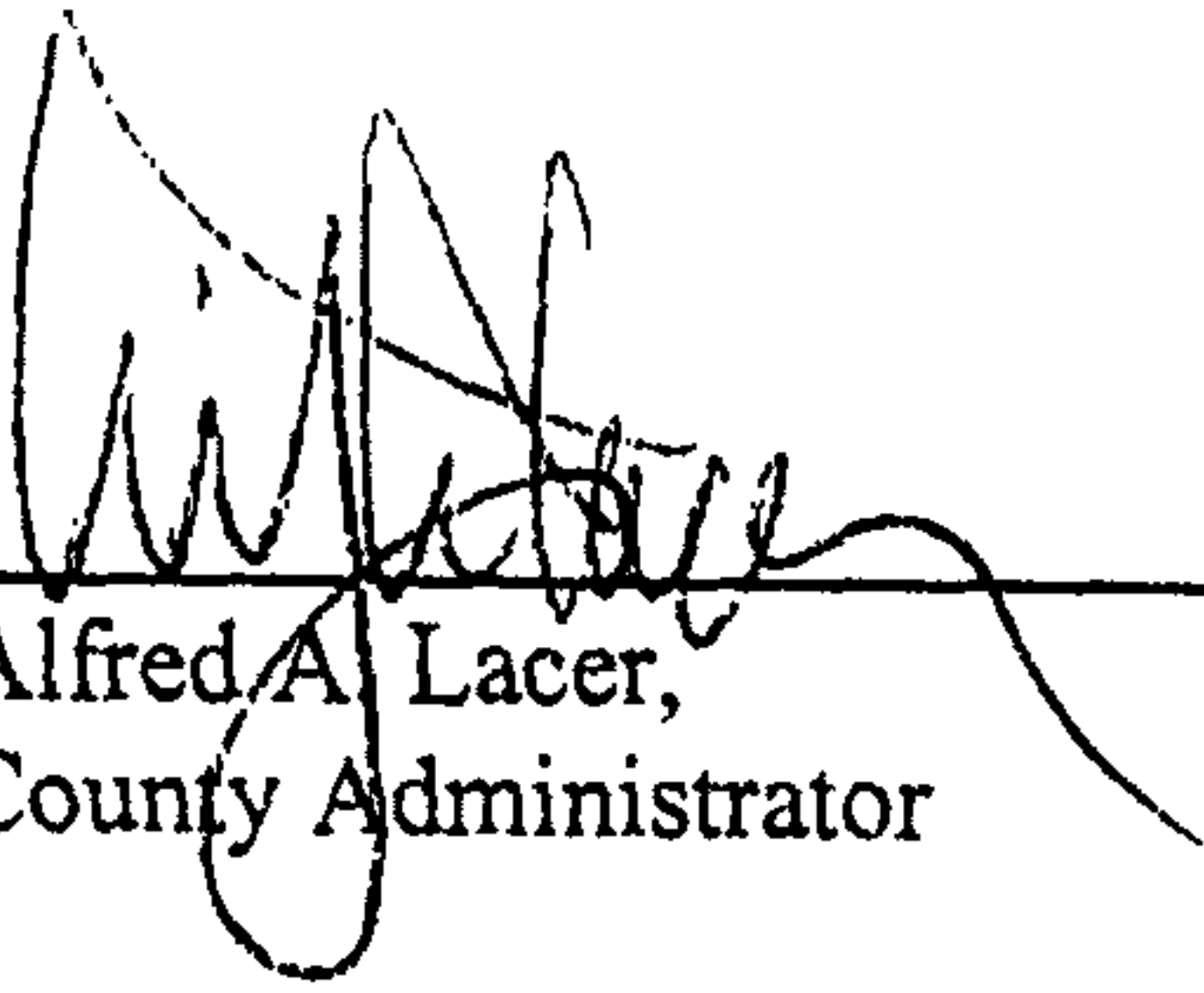
Those Absent: \_\_\_\_\_


DATE OF ADOPTION: February 18, 2003

EFFECTIVE DATE: February 18, 2003

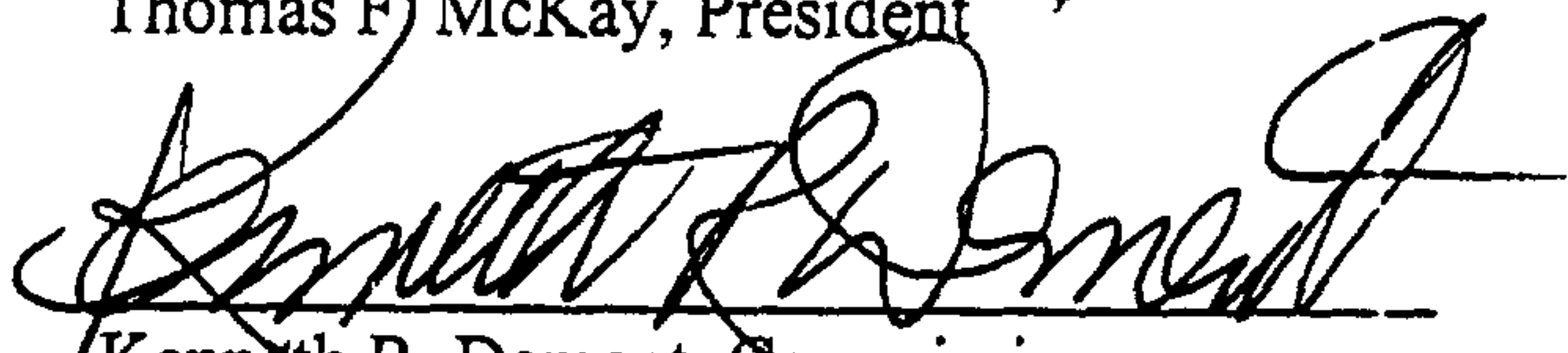
ATTEST:


BOARD OF COUNTY COMMISSIONERS  
FOR ST. MARY'S COUNTY

  
\_\_\_\_\_  
Alfred A. Lacer,  
County Administrator


  
\_\_\_\_\_  
Thomas F. McKay, President

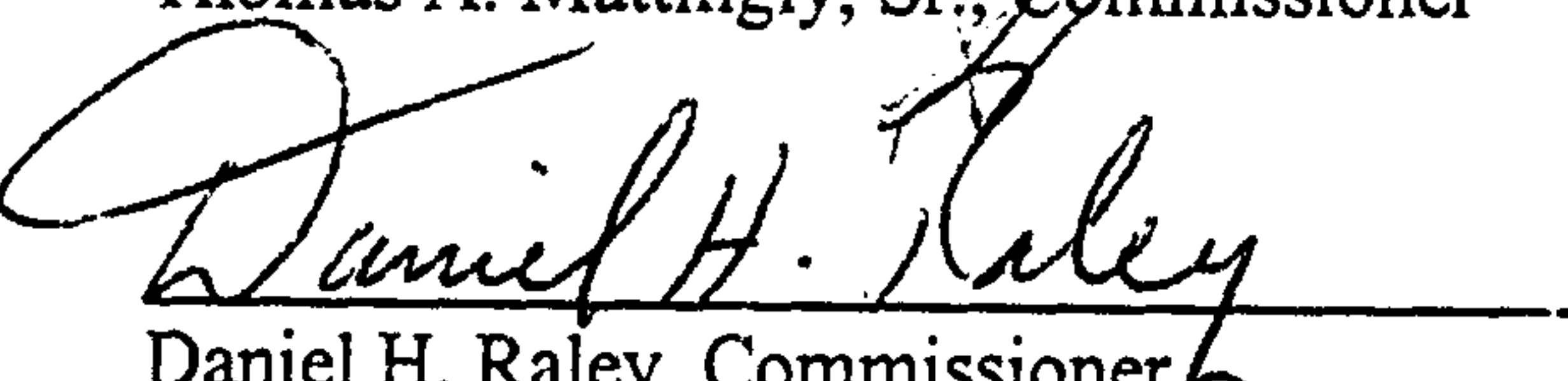
APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
Kenneth R. Dement, Commissioner

  
\_\_\_\_\_  
John B. Norris, III,  
County Attorney

  
\_\_\_\_\_  
Lawrence D. Jarboe, Commissioner

  
\_\_\_\_\_  
Thomas A. Mattingly, Sr., Commissioner

  
\_\_\_\_\_  
Daniel H. Raley, Commissioner



LIBERO 024 PAGE 25

**A CABLE FRANCHISE AGREEMENT  
BETWEEN ST. MARY'S COUNTY, MARYLAND,  
GANS MULTIMEDIA PARTNERSHIP,  
AND GANS COMMUNICATIONS, L.P.**



February 18, 2003

**CABLE FRANCHISE AGREEMENT**  
**ST. MARY'S COUNTY, MARYLAND**

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**CABLE TELEVISION FRANCHISE AGREEMENT  
BETWEEN ST. MARY'S COUNTY, MARYLAND,  
GANS MULTIMEDIA PARTNERSHIP,  
AND GANS COMMUNICATIONS, L.P.**

THIS CABLE FRANCHISE AGREEMENT (the "Franchise Agreement") is entered into by and between the County Commissioners for St. Mary's County ("County"), a body corporate and politic; Gans Multimedia Partnership, a Pennsylvania limited partnership, doing business as Western Shore Cable ("WSC"); and Gans Communications, L.P., a Delaware limited partnership ("GCLP").

WHEREAS, WSC has asked the County to renew WSC's nonexclusive franchise (the "Prior Franchise") to establish, construct, erect, install, maintain, repair, replace and operate a Cable System in the County; and

WHEREAS, the construction, installation, maintenance and operation of such a System involves the occupation of and placement of private commercial facilities in the Public Rights-of-Way within the County; and

WHEREAS, the County has relied on WSC's representations and has considered the information that WSC has presented to it; and

WHEREAS, based on WSC's representations and information, and in response to its request for renewal, the Board of County Commissioners has determined that, subject to the provisions of the Cable Ordinance, and the terms and conditions set forth herein, the grant of a new nonexclusive franchise to supersede the Prior Franchise, on the terms and conditions herein and subject to applicable law, is consistent with the public interest; and

WHEREAS, the County and WSC have reached agreement on the terms and conditions set forth herein; and

LIDEP 0 0 2 4 PAGE 0 3 0

WHEREAS, WSC has entered into a Securities Purchase and Asset Contribution Agreement dated August 8, 2002 ("Gans Agreement"), under which WSC's new franchise will be transferred to GCLP (the "Proposed Transaction"); and

WHEREAS, WSC has filed a transfer application dated August 22, 2002, with the County (the "Transfer Application"), requesting the County's consent to the Proposed Transaction; and

WHEREAS, the Board of County Commissioners has determined that the Proposed Transaction is consistent with the public interest;

NOW, THEREFORE, in consideration of the County's grant of a new franchise to WSC; WSC's promise to provide Cable Service to residents of the County pursuant to and consistent with the Cable Ordinance, its Franchise, and the terms and conditions set forth herein; and other good and valuable consideration, the receipt and the adequacy of which is hereby acknowledged;

THE SIGNATORIES DO HEREBY AGREE AS FOLLOWS:

**1. DEFINITIONS.**

Except as otherwise provided herein, the definitions and word usage set forth in the Cable Ordinance are incorporated herein and shall apply in this Agreement. In addition, the following definitions shall apply:

(a) *Basic Service*

: That Cable Service tier which includes all signals of domestic television broadcast stations provided to any Subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the

Cable System); any public, educational, and governmental programming required by the Franchise to be carried on the basic tier; and any additional video programming signals added to the basic tier by the cable operator.

- (b) *Cable Ordinance*: Ordinance 03-02, as it may be amended from time to time.
- (c) *Franchise*: The franchise granted pursuant to this Agreement.
- (d) *Franchise Agreement or Agreement*: This contract and any amendments, exhibits or appendices hereto.
- (e) *Franchise Area*: The entire present territorial limits of the County and any area annexed thereto during the term of the Franchise.
- (f) *Franchisee*: Gans Multimedia Partnership, a Pennsylvania general partnership, doing business as Western Shore Cable; and/or Gans Communications, L.P., a Delaware limited partnership, pursuant to the transfer specified in Section 2(k).
- (g) *Institutional Network or I-Net*: A communication network constructed or operated by the Operator of a Cable Communications System that is available for the use of County and other local agencies.
- (h) *PEG*: Public, educational, and governmental.
- (i) *Plant Mile*: The length in miles of strand-bearing or underground cable as measured on the street or easement from pole to pole or pedestal to pedestal.
- (j) *Prior Franchise*: Franchise Agreement granting a franchise to Simmons Communications Company, L.P., its successors and assigns, to operate and maintain a cable television system in St. Mary's County, Maryland, and setting forth the terms and conditions accompanying the grant of said franchise, dated February 25, 1992, including any extensions thereof.

(k) *System:* For purposes of this Agreement, the Cable System or System shall include the Institutional Network.

(l) *System Upgrade:* A major improvement or enhancement in the technology or service capabilities made by the Franchisee to its Cable System, including construction of the Institutional Network, as more fully described in Section 6(c) herein.

(m) *Upgrade Option:* This term shall have the meaning given to it in Section 6(m)(2) herein.

## **2. GRANT OF AUTHORITY; LIMITS AND RESERVATIONS**

(a) *Grant of Authority:* Upon passage by the Board of County Commissioners of an ordinance granting a franchise to the Franchisee, the Franchisee will be granted a franchise subject to the terms and conditions of this Franchise Agreement, and subject to the Cable Ordinance and all other applicable law. This Franchise shall grant no authority for the Franchisee to use the County's Public Rights-of-Way for any purposes other than provision of Cable Service, except to the extent other services may be provided pursuant to Section 7(j) herein. No privilege or power of eminent domain is bestowed by this grant; nor is such a privilege or power bestowed by this Agreement. This Agreement does not confer any rights other than as expressly provided herein. The franchise will be for the period specified in Section 2(c) below, during which time the Franchisee will receive the right and obligation to construct, reconstruct, operate and maintain a cable television system within the public rights-of-way in those areas of the County specified in Section 2(b) for the sole purpose of providing Cable Service. If for any reason whatsoever the Board of County Commissioners does not pass such an ordinance, this Franchise Agreement will be of no further force and effect.

(b) *Area Served*



(1) The Franchise is for the Franchise Area, as that term is defined herein.

(2) The Franchisee shall build its System so that it is able to provide service as provided in Section 4 to all areas located within the County limits as they existed on the Effective Date of this Agreement. It must build the System so that it can extend service to the County and to persons in the County, including residents located in areas which may be annexed in the future, in accordance with the provisions of this Agreement, unless this requirement is waived in writing by the County Commissioners; *provided, however*, that notwithstanding anything to the contrary, Franchisee shall not be required to overbuild any other cable television system in the County.

(c) *Term of Franchise:* The Franchise and this Franchise Agreement shall extend for a term of fifteen years, commencing on the date first set forth immediately below the final section of this Agreement (such date to be deemed the "Effective Date" for purposes hereof, regardless of the date on which this Agreement shall actually be executed by the parties hereto), unless the Franchise is earlier revoked or its term shortened as provided herein or in the Cable Ordinance.

(d) *Grant Not Exclusive:* The Franchise and the right it grants to use and occupy the Public Rights-of-Way shall not be exclusive, and the County reserves the right to grant other franchises for similar uses or for other uses of the Public Rights-of-Way, or any portions thereof, to any Person, or to make any such use itself, at any time, with or without a franchise.

(e) *Compliance With Applicable Law:* The Franchisee shall comply with the Cable Ordinance and all other applicable law.

(f) *Franchise Agreement Subject to Exercise of Police Powers:* All rights and privileges granted herein are subject to the police powers of the County and its rights under

applicable laws and regulations to exercise its governmental powers to their full extent and to regulate the Franchisee and the construction, operation and maintenance of the Franchisee's Cable System, including, but not limited to, the right to adopt and enforce additional ordinances and regulations as the County shall find necessary in the exercise of its police powers, the right to adopt and enforce applicable zoning, building, permitting and safety ordinances and regulations, the right to adopt and enforce ordinances and regulations relating to equal employment opportunities, and the right to adopt and enforce ordinances and regulations containing right-of-way, telecommunications, utility and cable television consumer protection and service standards and rate regulation provisions consistent with federal law.

(g) *Effect of Acceptance*

: By accepting the Franchise and executing this Franchise Agreement, the Franchisee:

(1) accepts and agrees to comply with each provision of the Cable Ordinance and this Agreement, and all applicable federal, state, and local laws and regulations;

(2) acknowledges and accepts the County's legal right to grant the Franchise, to enter this Franchise Agreement, and to enact and enforce ordinances and regulations related to the Franchise;

(3) agrees that the Franchise was granted pursuant to processes and procedures consistent with applicable law; that no provision, condition or term of the Franchise, the Ordinance or this Franchise Agreement at the time of the acceptance of the Franchise was unlawful, unreasonable or arbitrary, void or unenforceable; and that it enters into this Franchise Agreement freely and voluntarily, without any duress or coercion, after free and full negotiations, after carefully reviewing all of the provisions, conditions and terms of this Franchise Agreement, and after consulting with counsel; and

(4) agrees that it will not oppose intervention by the County in any proceeding affecting the Franchisee's Cable System.

(h) *Claims Related to Prior Franchise*

(1) As of the Effective Date of the Franchise, the Prior Franchise shall be of no further force and effect, and as of that date, the Franchisee surrenders any rights it had thereunder. The Franchisee shall remain liable for payments of all franchise fees owed under the Prior Franchise, and the grant of the Franchise shall have no effect on the Franchisee's duty under the Prior Franchise to indemnify or insure the County against acts and omissions occurring during the period that the Prior Franchise was in effect which accrued prior to but were discovered after the termination of the Prior Franchise. This provision shall not affect the Franchisee's obligation to provide PEG access support on an interim basis under this Franchise Agreement according to the terms of the Prior Franchise, as specified in Section 7(c)(5).

(2) Except as required to carry out the intent of the previous paragraph, the County and the Franchisee mutually release each other from any claims each had against the other under the Prior Franchise, to the extent such claims were known or should have been known prior to the termination of the Prior Franchise.

(3) The parties agree that any costs to the Franchisee or any cash payments made by the Franchisee under this provision, or associated with the provision of support for PEG access (including the Institutional Network) pursuant to this Franchise Agreement, do not constitute franchise fees within the meaning of 47 U.S.C. § 542, and fall within one or more of the exceptions to 47 U.S.C. § 542.

(i) *No Waiver*

(1) The failure of the County on one or more occasions to exercise a right or to require compliance or performance under this Franchise Agreement, the Cable Ordinance or

any other applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance by the County, nor to excuse the Franchisee from complying or performing, unless such right or such compliance or performance has been specifically waived in writing.

(2) Waiver of a breach of this Agreement shall not be a waiver of any other breach, whether similar to or different from that waived. Neither the granting of the Franchise, nor any provision herein, nor any action by the County hereunder shall constitute a waiver of or a bar to the exercise of any governmental right or power of the County, including without limitation the right of eminent domain.

(j) *No Recourse:* The Franchisee shall have no recourse against the County for any loss, cost, expense, claim, liability or damage arising out of any action undertaken or not undertaken by the Franchisee pursuant to the Franchise, this Agreement or the Cable Ordinance, whether or not such action or non-action was required by the Franchise, the Agreement or the Ordinance, arising out of the enforcement or non-enforcement by the County of any provision or requirement of this Agreement or the Ordinance.

(k) *Transfer of Franchise*

(1) The County hereby consents to the Proposed Transaction as described in the Transfer Application and the Gans Agreement. The approval of this Agreement by resolution of the Board of County Commissioners constitutes the County's final decision on Transfer Application for purposes of 47 U.S.C. § 537.

(2) Upon the closing of the Proposed Transaction, GCLP shall be bound by all the commitments, duties, and obligations, present, continuing and future, of WSC embodied in this Agreement and the Cable Ordinance, and all acts and omissions of WSC occurring prior to this Agreement will continue to be deemed to be those of GCLP.

(3) Neither this Agreement, nor any other action or omission by the County at or before the execution of this Agreement, shall be construed to grant the County's consent to any future transfer of the Franchise and/or the System, and/or any future change in ownership and/or control of the Franchise and/or the System, or to mean that the County's consent to any future transaction is not required, except as otherwise provided in the subsections of this Section 2(k)(3). In the event the Proposed Transaction does not close by August 1, 2003, or closes on terms that are in any material respect different from the terms disclosed to the County in writing, then any County consent to the Proposed Transaction shall be void and of no force or effect, and the Proposed Transaction deemed to have been timely denied.

(A) A change of control as among Joseph S. Gans III, Nautic Partners V., L.P., and Chisholm Partners IV, L.P., pursuant to Section 6.1(a) of the Operating Agreement of Gans Communications, L.L.C. (August 8, 2002), shall not require approval by the County unless it qualifies as a Transfer under § 2(b)(32)(A)(i), (iii), or (iv) of the Cable Ordinance, or unless it results in a change of direct or indirect control of the Franchisee or the System to a Person other than Joseph S. Gans III, or Nautic Partners V., L.P., or Chisholm Partners IV, L.P.

(B) A future investment in the Franchisee by the Investors as specified in Section 2.3(b) of the Gans Agreement shall not require approval by the County unless it qualifies as a Transfer under § 2(b)(32)(A)(ii), (iii), or (iv) of the Cable Ordinance.

(4) The Companies represent and warrant that the Proposed Transaction will not adversely affect the System's rates, customer service, or financial resources.

### 3. TRANSFERS

The Franchisee shall comply with all requirements of the Ordinance and applicable law regarding transfers.

### 4. PROVISION OF CABLE SERVICE

(a) *Availability of Cable Service:* Subject to the provisions of subsection (b), the Franchisee shall make Cable Service available to all residences, businesses and other structures within the Franchise Area, including multiple dwelling unit buildings, whose owners or occupants request Cable Service.

(b) *Line Extension Requirements*

(1) The Franchisee shall extend its Cable System within a reasonable time (but not to exceed one hundred twenty (120) days) to provide service to any person or business upon request at no charge other than any applicable installation fees for the individual subscriber's drop, as long as the following conditions are satisfied:

- (A) the new subscriber requesting service is located three hundred (300) feet or less from the termination of the Cable System, and
- (B) the number of potential subscribers to be passed by the extension necessary to serve such subscriber is equal to or greater than twenty (20) homes per mile measured from any point on the System.

Any time required to obtain necessary permits for such work will not be counted toward this

120-day period.

(2) In the event that the requirement set forth in Section 4(b)(1)(A) is not met, the Franchisee shall provide the necessary drop to serve a Subscriber if the Subscriber pays in advance the Franchisee's actual direct costs for such drop, constructed at the lowest cost consistent with good engineering practice, less the average direct costs attributable to a standard drop. In the event that the requirement set forth in Section 4(b)(1)(B) is not met, the Franchisee shall extend its cable System to serve a Subscriber if the Subscriber (who may recruit other affected Subscribers to help bear the cost) is willing to share the cost of the extension, according to the following formula: The percentage by which the actual number of homes per mile on the extension falls short of the number of homes per mile specified in Section 4(b)(1)(B) is the percentage of the total construction costs that must be borne by the Subscriber. The "total

construction costs" are defined as the actual turnkey cost to construct the entire extension including electronics, pole make-ready charges, and labor, but not the cost of the house drop.

(B) Thus, for example: To reach a requesting Subscriber requires an extension of two miles. That extension contains sixteen homes. Because the proposed extension contains only 40% of the total number of homes specified in Section 4(b)(1)(B) for required service (20 homes per mile or 40 homes over two miles), the Subscriber, with any other affected Subscribers who wish to contribute, must pay the remaining 60% of the cost.

(c) *Conditions of Access*

(1) Except as federal or state law shall otherwise require, the County shall not permit any person who owns or controls a residential multiple unit dwelling, trailer park,

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condominium, apartment complex, subdivision or other property to interfere with the right of any tenant, resident or lawful occupant thereof to request and receive cable installation, service or maintenance from a Franchisee. The owner or person in control of a residential multiple unit dwelling, trailer park, condominium, apartment complex, subdivision or other property shall be consulted and give final direction regarding the means and methods for installation consistent with customary practices in the industry.

(d) *Continuity of Service*

(1) It is the right of all Subscribers in the Franchise Area, subject to Section 4(b), to receive all cable services from the Franchisee as long as their financial and other obligations to the Franchisee are satisfied.

(2) At the County's reasonable request, if necessary, the Franchisee shall operate its System for a temporary period (the "Transition Period") following the termination or revocation of its Franchise to maintain continuous service to Subscribers and I-Net availability to the County, and shall cooperate with the County to allow an orderly transition from it to another Franchisee. The Transition Period shall be no longer than reasonably necessary to complete the transition, and shall not be longer than twenty-four (24) months, unless extended by the County for good cause. During the Transition Period, the Franchisee will continue to be obligated to comply with the terms and conditions of this Agreement and applicable laws and regulations.

(3) If the Franchisee abandons its System during the Franchise term, or fails to operate its System in accordance with the terms of this Agreement during any Transition Period, the County, at its option, may operate the System, designate another entity to operate the System temporarily until the Franchisee restores service under conditions acceptable to the County or until the Franchise is revoked and a new Franchisee selected by the County is providing service, or obtain an injunction requiring the Franchisee to continue operations. Such



abandonment shall also be cause for revocation of the Franchise. If the County is required to operate or designate another entity to operate the Cable System, the Franchisee shall reimburse the County or its designee for all reasonable costs and damages incurred that are in excess of the revenues from the Cable System.

(4) The Franchisee shall be deemed to have abandoned its System if the Franchisee fails to provide Cable Service in accordance with its Franchise over a substantial portion of the Franchise Area for ninety-six (96) consecutive hours, unless the County authorizes a longer interruption of service or the failure is due to *force majeure* as characterized herein, or the Franchisee, for any period, willfully and without cause refuses to provide Cable Service in accordance with its Franchise over a substantial portion of the Franchise Area.

## 5. CONSTRUCTION AND MAINTENANCE

### *(a) System Tests and Inspections*

(1) The Franchisee shall perform all tests necessary to demonstrate compliance with the requirements of the Franchise and other performance standards established by applicable law or regulation, and to ensure that the System components are operating as expected.

(2) The Franchisee shall conduct tests as follows:

- (A) acceptance tests on each newly constructed or rebuilt segment prior to subscriber connection or activation;
- (B) proof of performance tests on the System at least once every six months or as required by FCC rules, whichever is more often, except as federal law otherwise limits the Franchisee's obligation;

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(C) appropriate diagnostic tests when Subscriber or User complaints indicate such tests are warranted;

(3) The County may observe any tests performed on the System. The Franchisee shall provide the County with at least two business days' notice of any acceptance tests performed under section 5(a)(2)(A), any proof of performance tests performed under section 5(a)(2)(B), and, if the County has transmitted to the Franchisee or otherwise been directly involved in the relevant Subscriber or User complaint, any diagnostic tests performed under section 5(a)(2)(C). The County may also conduct inspections of construction areas and subscriber installations, including but not limited to inspections to assess compliance with the Franchisee's construction and installation requirements, this Agreement and applicable law generally. Inspection does not relieve the Franchisee of its obligation to build in compliance with all provisions of the franchise.

(4) A written report of the results of any tests specifically requested by the County pursuant to Section 5(a)(2)(C) shall be filed with the County within seven (7) business days of each test. In addition, the Franchisee shall retain written reports of the results of any tests required by the FCC, and such reports shall be submitted to the County upon the County's written request.

(5) If any test indicates that any part or component of the System fails to meet applicable requirements, the Franchisee, without requirement of additional notice or request from County, shall take corrective action, retest the locations and (if the County has requested the test or otherwise been directly involved) advise the County of the action taken and results achieved.

(6) The County reserves the right to conduct its own tests upon reasonable notice to the Franchisee. The Franchisee shall have the right to have its representatives present

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at such tests, which shall be conducted so as to avoid damage to the System. If substantial noncompliance is found, the expense thereof shall be borne by the Franchisee. The County will endeavor to arrange any request for such tests so as to minimize hardship or inconvenience to the Franchisee or to subscribers and shall endeavor to ensure that testing procedures and test criteria are consistent with FCC and customary industry standards, including use of qualified personnel and proper calibration of test equipment.

(b) *Restoration:* In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Franchisee shall, once it becomes aware or is notified of such a disturbance, in a manner approved by the County, replace and restore all paving, sidewalk, driveway, landscaping, or surface of any street or alley disturbed, in substantially the same condition and in a good workmanlike, timely manner in accordance with any standards for such work set by the County. Such restoration shall be undertaken within no more than five business days after the damage is incurred, and subject to weather conditions shall be completed as soon as reasonably practicable thereafter.

(c) *Publicizing Proposed Construction Work:* The Franchisee shall notify the public prior to commencing any significant planned construction that Franchisee reasonably anticipates will materially disturb or disrupt public property or have the potential to present a danger or affect the safety of the public generally. The Franchisee shall publicize such planned construction work at least one (1) week prior to commencement of that work by causing written notice of such construction work to be delivered to the County and by notifying those Persons most likely to be affected by the work in at least two (2) of the following ways: by telephone; in person; by mail; by notices shown on the System at times and on channels likely to afford actual notice in a large number of cases; by distribution of flyers or door hangers to residences; or by

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publication in at least one local newspaper of general circulation. If the Franchisee must enter a subscriber's premises, it must schedule an appointment at the convenience of the owner or resident.

(d) *System Maintenance: Interruptions to be Minimized.* The Franchisee shall schedule maintenance on its System so that activities likely to result in an interruption of service are performed during periods of minimum Subscriber use of the System.

#### **6. SYSTEM FACILITIES, EQUIPMENT AND SERVICES**

(a) *System Characteristics:* The Franchisee's Cable System shall, at all times during the Franchise term, meet or exceed the following requirements:

(1) *Industry-accepted Equipment.* The System shall use equipment generally used in high-quality, reliable, modern systems of similar design, including but not limited to backup power supplies capable of providing power to the System for not less than two hours according to manufacturer's reasonable specifications, in view of local conditions, in the event of an electrical outage. The obligation to provide such backup power supplies shall apply to the Franchisee's headend and each fiber optic node. In addition, the design and construction of the System shall include modulators, antennae, amplifiers and other electronics that permit and are capable of passing through the signals received at the headend without substantial alteration or deterioration (thus, for example, the System shall include components so that a signal received at the headend in color may be received by a Subscriber in color and a stereo signal in stereo). The Franchisee shall comply with all applicable laws and regulations concerning System compatibility with Subscribers' television receivers and/or videocassette recorders.

(2) The Franchisee shall comply with all FCC regulations regarding scrambling or other encryption of signals.

(3) No Deterioration to Access Signals. The System shall be so constructed and operated that there is no significant deterioration in the quality of PEG access signals or leased access signals, either upstream or downstream, as compared with any other channel on the System. Deterioration refers to any signal problem, including but not limited to ghost images and other interference and distortions.

(4) Parental Control. The Franchisee shall ensure that means are available to enable Subscribers to block out audio and video on any undesired channels on the System.

(5) Program Security. The System shall include equipment so that any pay-per-view programming can only be activated by the positive action of a subscriber using, for example, a private identification number or other individual selection procedure.

(6) Service to Persons with Disabilities. All closed-caption programming retransmitted by the System shall include the closed-caption signal. For hearing impaired Subscribers, the Franchisee shall provide information concerning the cost and availability of equipment to facilitate the reception of all basic services for the hearing impaired.

*(b) Current System*

(1) The Franchisee is authorized and required to operate its existing System, and to provide service substantially equivalent to its existing service, within the County as of the Effective Date of this Agreement, until such time as the System is upgraded as provided herein.

(2) The Franchisee shall implement a preventive maintenance plan to sweep and balance the trunk of the entire distribution system, including all trunk amplifiers from the headend to the last bridger amplifier, including any active return path. As picture quality problems unrelated to frequency response are discovered as the System is swept and balanced, that portion of plant will be inspected and any plant-related problems causing poor pictures will be corrected. The Franchisee shall carry out this maintenance plan pursuant to a reasonable

implementation plan which it establishes in consultation with the County. If in testing the System after sweeping and balancing it is found that portions of the distribution system nonetheless demonstrate poor quality related to frequency problems, then at a minimum the remaining part of those portions of the distribution system will also be swept and balanced.

(3) The Franchisee shall provide the County with a monthly report on its system's status with regard to the maintenance plan specified in Section 6(b)(2), to be delivered on or before the tenth of each month. Such report shall indicate the number of service calls in each of the following categories during the previous month: Analog video service, digital video service, and cable modem service.

(c) *System Upgrade:* The Franchisee shall complete a System Upgrade providing capabilities at least equal to those of the following model System:

(1) The upgraded System shall have a minimum bandwidth of 750 MHz on all active components and at least 1 GHz for all passive components.

(2) The upgraded System shall provide activated two-way capability and shall be capable of providing high-speed Internet access via cable modems wherever Cable Service is provided.

(3) The System shall utilize a fiber-optic wire trunk and distribution ("hybrid fiber-coaxial") design and at no place in the System shall more than one thousand (1,000) residences, businesses and other structures be served by any single fiber node.

(4) There shall be no more than eight active components in a cascade measured from the node.

(5) The Franchisee shall implement status monitoring throughout the System at all hubs and nodes. The status monitoring system must, among other things, monitor signal

level and distortion parameters and alert the Franchisee when and where back-up power supplies are being used.

(d) *System Design Review Process:* At least sixty (60) days prior to the date construction of the System Upgrade, or any similar major construction that would affect more than ten percent of the Subscribers, is scheduled to commence, the Franchisee shall submit to the County a detailed System design and construction plan which shall include at least the following elements:

- (1) Design type, trunk and feeder design, and number and location of hubs or nodes.
- (2) Distribution system equipment to be used.
- (3) Plans for standby power.
- (4) Longest amplifier cascade in System (number of amplifiers, number of miles, type of cable/fiber).
- (5) Design maps and trunk tree maps for the System.

The System design will be shown on maps of industry standard scale using standard symbology, and shall depict all electronic and physical features of the cable plant. The County may review the plan and, within thirty (30) days of the date the plan is made available for County review, submit comments to the Franchisee. The County may take any appropriate action it is entitled to take under this Agreement, the Cable Ordinance, or other applicable law if it believes the design plan fails to satisfy or is likely to fail to satisfy the Franchisee's obligations. The County's review does not excuse any non-performance under this Agreement, the Cable Ordinance or other applicable law.

(e) *System and Institutional Network Upgrade Schedule*

(1) The Franchisee shall begin construction of the System Upgrade and Institutional Network within three (3) months after the Effective Date of the Franchise, and shall complete construction within forty-two (42) months after the Effective Date of the Franchise, in order to minimize disruption of the Public Rights-of-Way. Thirty percent of the System Upgrade and Institutional Network construction shall be completed within twelve (12) months after the Effective Date, sixty percent shall be completed within twenty-four (24) months after the Effective Date, and ninety percent shall be completed within thirty-six (36) months after the Effective Date.

(2) The Franchisee's construction plan shall insure that service is extended to low income areas at least as quickly as it is extended to higher income areas.

(3) All construction shall be performed in accordance with applicable provisions of the Cable Ordinance and this Agreement, except where specifically waived in writing by the County.

*(f) Periodic Progress Reporting:* Following the commencement of construction of the System Upgrade or any similar major construction, including construction of the Institutional Network, every three (3) months until the construction is completed, the Franchisee shall meet with the County and provide an update on the progress of the upgrade according to the Franchisee's general plan, unless the County waives such meeting. Upon request, the Franchisee shall provide detailed written reports to the County on the Franchisee's progress in construction.

(1) **Public Notification.** Prior to the beginning of any System Upgrade construction or any similar major construction, and periodically during each phase, the Franchisee shall inform the public and its Subscribers about the progress of the upgrade, areas



where construction crews will be working and any expected temporary interruptions to existing services which may occur.

(2) Delays in the System Upgrade. The Franchisee shall not be excused from the timely performance of its obligation to begin and complete any System Upgrade, including construction of the Institutional Network, within the times specified herein, except for the following occurrences:

- (A) Any "force majeure" situation, as described herein;
- (B) Unreasonable failure or delay by the County to issue any permits or permission upon a timely request submitted by the Franchisee or its contractor representative and tender of any required permit fees;

(3) Consequences of Delays. Absent a showing of excusable delay pursuant to subsection 6(f)(2) above, should the Franchisee be unable to demonstrate the commencement or timely completion of the System Upgrade (including the Institutional Network) by the times specified herein, or be unable to reasonably justify any delays, then the Franchisee shall be in violation of a material provision of this Franchise Agreement and the County may, in its sole discretion, either grant the Franchisee an extension of time to complete such construction or implement any enforcement measures specified in this Agreement or the Cable Ordinance, including but not limited to revocation of the franchise.

(g) *Technical Standards:* The Cable System shall meet or exceed the technical standards set forth in 47 C.F.R. § 76.601 and any other applicable technical standards.

(h) *Interconnection*

(1) The Franchisee shall design its System so that the Institutional Network, emergency alert system, and PEG channels may be interconnected with other cable systems, institutional networks, or similar communications systems as specified in section 6(h)(2). Such

interconnection of systems may be made by direct cable connection, microwave link, satellite or other appropriate methods approved by the County, such approval not to be unreasonably withheld.

(2) Upon receiving the directive of the County to interconnect with a system in the County or in a contiguous county, the Franchisee shall immediately initiate negotiations with the other affected system or systems and cooperate with such other affected system or systems to achieve the requested interconnection. The County may require the Franchisee to make such interconnection provided that: (a) such interconnection is technically and economically feasible; (b) any other affected system operator cooperates with the Franchisee to achieve the requested interconnection; and (c) the Franchisee and any other affected system operator can agree upon reasonable interconnection arrangements, including an allocation of the costs of interconnection between the Franchisee and such other operator that is reasonably acceptable to the Franchisee.

(3) The Franchisee shall cooperate with any interconnection corporation, regional interconnection authority, state or federal regulatory agency which may be hereafter established for the purpose of regulating, facilitating, financing or otherwise providing for the interconnection of communications systems in a region including the County, subject to the conditions (a)-(c) specified in Section 6(h)(2).

(i) *Emergency Alert System*

(1) The Franchisee shall install and maintain for use by the County an Emergency Alert System ("EAS") meeting all applicable requirements of federal law.

(2) This EAS shall be remotely activated by telephone and shall allow a representative of the County to override the audio and video on all channels on the Franchisee's System, without the assistance of the Franchisee, for emergency broadcasts from two locations -

the County Emergency Communications Center and the County Back-up Emergency Communications Center – in the event of a civil emergency or for reasonable tests.

(3) The County will provide reasonable notice to the Franchisee prior to any test use of the EAS. Such tests shall not occur more than once a month. The Franchisee shall cooperate with the County in any such test.

(j) *Uses of System:* Franchisee shall advise the County of all active uses of the System, for both entertainment and other purposes, within thirty days after commercial deployment of such uses.

(k) *Home Wiring*

(1) Prior to a customer's termination of Cable Service, the Franchisee will not restrict the ability of a Subscriber to remove, replace, rearrange or maintain any cable wiring located within the interior space of the Subscriber's dwelling unit, so long as such actions do not interfere with the ability of the Franchisee to meet FCC technical standards or to provide services to, and collect associated revenues from, that customer or any neighboring customer in a multiple dwelling unit.

(2) The Franchisee will provide Subscribers with a notification upon commencement of service, and annually thereafter, advising them of their rights relating to home wiring.

(l) *Opinion Survey Report:* The Franchisee shall conduct a nonbinding opinion survey at least every three years which shall identify information on programming and services desired. The Franchisee shall submit the results of this survey to the County by March 1 of the year following such survey.

(m) *Mid-term Technical Review*

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(1) The County may conduct a Mid-Term Technical Review of the Franchisee's Cable System, beginning during the ninth year of the Franchise. The Franchisee shall fully cooperate and assist the County in conducting such review.

(2) Purpose: The purpose of the Mid-Term Technical Review shall be to evaluate the technical performance and capabilities of the Franchisee's System to determine whether to require a System Upgrade to conform with technical improvements then commonly in use in the industry and available on systems in communities similar to the County. Subject to the provisions of this Section 6(1), the County may amend this Franchise Agreement to require the Franchisee to upgrade its System to incorporate technical improvements (the "Upgrade Option").

(3) County's Initial Review: To determine whether to invoke the Upgrade Option, the County shall first commence a review of the Cable System. Such review shall be conducted to enable the County to determine the following: (i) whether the Cable System should be upgraded or rebuilt; and (ii) whether the Cable System's technical standards should be revised or improved. Each determination under this paragraph shall be based upon the reasonable cable-related needs and interests of the community, considering the costs to the Franchisee of meeting those needs and interests.

(4) Franchisee's Report: To assist in the County's initial review, the Franchisee shall, at the end of the eighth (8) year and the end of the fifteenth (15) year of the Franchise term, submit a report to the County describing advances in cable technology nationwide, the potential benefits and disadvantages of those advances for consumers, and any plans or timetables the Franchisee may have for instituting such changes in technology..

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(5) Public Hearings: If, after conducting its initial review, the County determines that a System Upgrade may be warranted, it shall hold at least two public hearings to enable the general public and the Franchisee to comment and to present additional information.

(6) Discussions With Franchisee: The County and the Franchisee may conduct discussions regarding the information developed during this process and any potential upgrade requirements. If the County and the Franchisee agree as to whether and how the Franchise Agreement should be amended in light of this information, they may proceed to amend this Franchise Agreement pursuant to Section 6(m)(9) without the need for an Order and Response pursuant to Sections 6(m)(7) and 6(m)(8).

(7) Upgrade Order: Following the public hearings specified in Section 6(m)(5), unless amendments to the Franchise Agreement are agreed to pursuant to Section 6(m)(6), the County shall determine whether the exercise of the Upgrade Option is warranted, based upon the reasonable cable-related needs and interests of the community, considering the costs to the Franchisee of meeting those needs and interests. The County shall then issue a written order ("Upgrade Order") stating whether an upgrade is required, describing any upgrade to be implemented, and setting forth the basis for its decision. If an upgrade is required, the County shall set forth any relevant conditions.

(8) Franchisee's Response. Within sixty (60) days after the County issues the Upgrade Order, the Franchisee shall notify the County in writing whether it will comply with the Order. If the Franchisee does not so notify the County within sixty (60) days, the Franchisee will be deemed to have agreed to comply with the Upgrade Order.

(9) Amendment of the Franchise Agreement. If the Franchisee agrees to comply with the Upgrade Order, the parties shall amend this Franchise Agreement accordingly.

(10) Rejection of the Upgrade Option. If, however, the Franchisee does not agree to comply with the Upgrade Order, the Franchisee shall, as its sole remedy, notify the County in writing, pursuant to Section 626 of the Cable Act, that it wishes to commence proceedings to renew the Franchise. If, at the time of such notice, more than three (3) years remain in the term of the Franchise, such notice shall be deemed, by mutual agreement, to shorten the term of the Franchise and this Agreement so that the Franchise and this Agreement shall terminate thirty-one (31) months from the date of the notice.

**7. CHANNELS AND FACILITIES FOR PUBLIC, EDUCATIONAL AND GOVERNMENTAL USE**

*(a) Access Capacity*

(1) Initial Capacity. The Franchisee shall initially make available to all Subscribers on the System at least two (2), and where the System Upgrade is complete at least four (4), standard 6 MHz analog NTSC Access Channels for public, educational and/or governmental use, which Channels shall be in addition to any capacity provided on the Institutional Network pursuant to Section 7(j). This initial capacity may be reduced pursuant to the conditions in this Section 7(a).

(2) Reduction of PEG Capacity. The fourth channel dedicated to public, educational and/or governmental use may be reclaimed by the Franchisee under the conditions specified in Section 7(a)(4), pursuant to the procedure specified in Section 7(a)(3). In addition, the County shall prescribe rules and procedures under which the Franchisee is permitted to use capacity on an access channel for the provision of other services if such channel capacity is not being used for the purposes designated, and rules and procedures under which such permitted use shall cease. Use by the Franchisee of capacity that has previously been dedicated to PEG

purposes shall be considered temporary and subject to later restoration of PEG use pursuant to the same procedures.

(3) Procedure for Adjustment of PEG Capacity. Requests for the Franchisee to make use of an underutilized fourth PEG channel, or for the restoration of that channel if it has been reclaimed by the Franchisee, may be made to the County Administrator. The County Administrator shall determine whether that channel should be reclaimed or restored, using the criterion set forth in Section 7(a)(4). The County Administrator shall render a written decision regarding such a request within sixty days of receiving the request.

(4) Criterion for Adjustment of PEG Capacity. The fourth access channel specified in Section 7(a)(1) shall be returned by the County for use by the Franchisee, or restored for PEG use by the Franchisee, based on the following criterion: The other educational access channel is programmed with qualified programming at least sixty percent (60%) of the time between 8:00 a.m. and 10:00 p.m., five (5) days per week, during any consecutive sixteen-week period.

- (A) All qualified programming shall count in this measurement for the actual running time shown.
- (B) "Qualified programming" includes any material carried on the access channels, except for "bulletin board" material where the same text (or video and text) screen is sent simultaneously to all system subscribers.
- (C) Repeat programs are qualified programming only to a maximum of twenty-five percent (25%) of total qualified programming.  
"Repeat program" means the running time of any program only to

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the extent it is shown more than four (4) times during the test hours over the sixteen-week measurement period.

(D) Qualified programming includes non-locally produced programming only to a maximum of ten percent (10%) of total qualified programming. "Locally produced programming" means programming produced by educational institutions within the County.

(5) Time Periods for Changes in PEG Usage. The fourth PEG channel shall be reclaimed or restored as specified in this Section within ninety days after receiving the County Administrator's decision.

(6) Time Limit on Frequency of Requests. No requests for reclaiming or restoration of the fourth PEG channel under Section 7(a)(3) shall be made within one year after a change under that Section has been made.

(7) Digital Carriage. The Franchisee shall carry all public, educational, and governmental access video programming in analog form unless and until (A) all other programming on the System is converted to digital, or (B) the Franchisee and the County agree that some or all Access Channels shall be converted to digital, whichever occurs first. If and when one of those conditions is met, the Franchisee shall also deliver any PEG channels in a digital format, and the following additional requirements shall apply:

(A) If any access channels are provided to the Franchisee in a high-definition television format, the Franchisee shall carry such access channels in a form that preserves such format, using any applicable



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compression or other techniques at no lower level of quality than it applies to other channels on its System.

- (B) If capacity dedicated for PEG use pursuant to Section 7(a)(1) of this Agreement is subdivided or compressed resulting in multiple transmission paths, the Franchisee may reclaim for its own use 50% of the initial PEG capacity. For purposes of this subsection, the capacity dedicated to a PEG Channel prior to such subdivision or compression refers to a 6 MHz channel.

*(b) Carriage of Access Channels*

(1) The Franchisee will provide any Access Channels on the basic tier throughout the life of the Franchise, or if there is no basic tier, shall provide the Access Channels as part of the service provided to any Subscriber, at no additional charge, and so that the channels are viewable by the Subscriber without the need for additional equipment. If channels are selected through a menu system, the Access Channels shall be displayed as prominently as commercial programming choices offered by Franchisee.

(2) Access Channel assignments shall be the same throughout the System. Access Channel assignments should not be changed unless there is good cause and the Access Channel programmer consents to the change. Such consent to a channel assignment change shall not be unreasonably withheld. Any such reassignment must be to a channel of technical quality at least equivalent to that of other channels on the System. In the event of such a reassignment, Franchisee shall place a notice of the reassignment in a local paper for thirty (30) days prior to the change advising Subscribers of the channel reassignment, and pay the costs of all equipment required due to the reassignment. The Franchisee shall also run announcements of the reassignment on the System's alphanumeric channel or equivalent channel.

(3) If a PEG use is discontinued and later reinstated pursuant to Section 7(a)(3), such use shall if reasonably possible be returned to the same location or channel position it previously occupied.

(c) *Capital Support for Access Equipment and Facilities*

(1) The Franchisee shall deliver to the County Administrator the capital grants hereinafter specified to be used by the County, in its discretion, for PEG access equipment or facilities for governmental and educational access (including, but not limited to, studio and portable production equipment, editing equipment and program playback equipment), as follows: (A) Within ninety (90) days following the Effective Date, a capital grant of \$18,126 for use by the County to purchase meeting room access improvements; (B) upon certification for occupancy of the educational access studio and requisition of the access equipment at the Career Center, a capital grant of \$74,826 for the acquisition of such equipment; and (C) upon certification for occupancy of the governmental access studio and requisition of the access equipment at the Government Center, a capital grant of \$74,826 for the acquisition of such equipment, provided that the grant specified in (C) shall not be required of the Franchisee before July 1, 2005. In lieu of providing certification of occupancy and requisition of equipment, the County may elect to make the expenditures required by this Section 7(c) and present invoices to the Franchisee in amounts up to but not exceeding the amounts specified herein for such expenditures, in which case the Franchisee shall pay such invoices within thirty (30) days of receipt.

(2) The Franchisee shall provide appropriately qualified and adequate staffing at the public access studio co-located with the elementary and secondary school access studio during non-school hours in accordance with the February 18, 2003 letter from the Franchisee, attached hereto as Appendix 2.

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(3) The Initial Capital Grant specified in Section 7(c)(1) is based on the assumption that the same studio facilities and equipment used for governmental and educational access purposes can also be used to meet the needs and interests of public access program production. If and when those facilities and equipment no longer meet the needs and interests of public access programming according to the criteria set in Section 7(c)(4), the Franchisee shall provide a supplemental studio at its offices which shall be shared with Public Access Users. Alternatively, the Franchisee may provide a dedicated studio for Public Access Users.

(A) The Franchisee shall provide and maintain equipment in such a studio that will enable the production of public access programming which is of commercial quality and generally equivalent to the public access programming produced at the educational access studios, and shall provide staff to the extent necessary to (a) make the equipment available; (b) provide for the check-in and check-out of public access equipment; (c) maintain a record of studio use by persons producing public access programming in conformity with public access rules and regulations adopted by the County.

(B) The supplemental studio shall be available at least thirty (30) hours per week, including at least 25% of that time on weeknights and/or weekends.

(C) Individuals using public access equipment in the supplemental studio shall be required to complete training successfully at the educational access studios and to be certified by the County or the

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educational access manager as qualified to use the public access equipment.

- (D) The Franchisee shall be required to make such facility available for an additional 10 hours per week if potential producers of public access programming are approved by the County as having presented a reasonable plan for additional regularly shown public access programming not then being produced in the existing public access facilities. Any such plan shall be consistent with any rules and regulations adopted by the County for public access use.

(4) It shall be deemed that the facilities and equipment described in Section 7(c)(1) no longer meet the needs and interests of public access programming if the following conditions are satisfied:

- (A) as measured over a three-month period, both the governmental and the educational access studios are in use at least 75% of the time during any of the following three time segments: (i) Monday through Friday 9 am through 6 pm, (ii) Monday through Friday 6 pm through 11 pm, and (iii) Saturday and Sunday 9 am through 6 pm; and
- (B) potential producers of public access programming provide the County with a reasonable plan for additional regularly shown public access programming not then being produced which would require the use of supplemental studio facilities or equipment comparable to those available in the governmental and educational

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access studios for a cumulative total of at least five hours per week. Any such plan shall be consistent with any rules and regulations adopted by the County for public access use.

(5) The Franchisee shall continue to provide studio facilities, equipment and support for governmental access pursuant to the terms of the Prior Franchise until the governmental access studio specified in Section 7(c)(1) is ready to be used for full-time program production. The Franchisee shall continue to provide studio facilities, equipment and support for public and educational access pursuant to the terms of the Prior Franchise until the educational access studio specified in Section 7(c)(1) is ready to be used for full-time program production.

(d) *Equipment Repair and Replacement:* Throughout the Franchise term, the Franchisee shall collaborate with the County and its designated access manager to provide for the timely repair and replacement at the Franchisee's cost of the access equipment being used by the County, or any of the County's designated providers, in producing or providing PEG programming, including equipment provided under or used during the Prior Franchise. The Franchisee shall be responsible for the costs of repair and replacement of such equipment due to normal wear, but shall not be responsible for such costs to the extent that equipment is negligently or intentionally damaged. Any equipment failure that prevents a Programmer from transmitting its programming shall be cured as soon as possible and addressed within twenty-four (24) hours after the Franchisee becomes aware of such failure. Any other failure of equipment shall be cured within thirty (30) days after the Franchisee becomes aware of such failure, except to the extent that circumstances beyond the Franchisee's control, such as availability of parts, may require a longer delay.

(e) *Equipment Upgrade:* At any time after the end of the sixth (6) year of the Franchise term and upon at least one hundred eighty (180) days notice, the Franchisee shall provide an additional capital grant to upgrade the facilities and equipment provided for under Section 7(c)(1)-(2) in the amount of \$80,000 in 2002 dollars (adjusted for Inflation).

(f) *Return Feed From Facilities*

(1) The Franchisee shall provide dedicated, bidirectional fiber optic links between the headend and the access production facilities specified in Section 7(c). These links shall be completed upon completion of each such facility.

(2) The Franchisee shall provide and install all equipment for amplification, conversion, receiving, transmitting, and headend processing of signals to be used for public, educational, and governmental purposes on the System.

(3) The dedicated connections required by Section 7(f)(1) shall be designed and built to include all equipment, including but not limited to laser transmitters, modulators, and processors, drops and wiring, so that each such center can send signals to the headend on at least two channels initially and up to two additional channels if additional downstream channels are activated for PEG use, all such signals meeting the EIA-250C Electrical Performance Standards for Television Transmission short-haul standards for television signal transmissions; and so that the facilities can each remotely and without assistance from the Franchisee or access to its headend receive signals from distant locations. Franchisee shall bear the cost of acquiring all equipment necessary to meet this requirement.

(g) *Management of Channels:* The County may, from time to time, designate or redesignate one (1) or more entities, including, but not limited to, a non-profit access management corporation, to perform any or all of the following functions:

- (1) to manage any necessary scheduling or allocation of capacity on the Institutional Network; and/or
- (2) to program any Public, Educational, or Government Access Channel, including scheduling program placement and use of production facilities, and including the establishment of reasonable rules regarding use of access channels.

Until such an entity has been designated, the County shall be responsible for these functions.

(h) *Editorial Control:* Except as expressly permitted by federal law, the Franchisee shall not exercise any editorial control over the content of programming on the designated Public, Educational and Governmental Access Channels (except for such programming as the Franchisee may produce and cablecast on such Channels).

(i) *Cable Service to Public Facilities*

(1) Upon the request of the County, the Franchisee shall without charge install one activated connection at each St. Mary's County Public School, Father Andrew White School, Holy Angel-Sacred Heart School, Lexington Park Christian School (a.k.a. King's Christian Academy), Little Flower School, Mother Catherine Spalding School, St. John's School, St. Michael's School, Leonard Hall Junior Naval Academy, St. Mary's Ryken High School and County office and agency (whether the County owns or leases space for such office or agency) within the County that is within five hundred (500) feet of its cable plant. There shall be no restriction upon the County as to the number of television receivers which the County may operate from any such connection, provided that the expense of installing and maintaining any internal distribution system within any such School building shall be that of the County of its school board and provided further that any such internal distribution system installed by the County or the school board shall conform to all applicable rules, regulations and ordinances and

shall be operated in such a way as not to interfere with Franchisee's System. The Franchisee shall relocate any such location within 45 days after the County's written request, for a charge not to exceed Franchisee's costs for effecting such relocation.

(2) The Franchisee shall provide Basic Service, and any equipment necessary to receive such service, free of charge to those facilities specified in subsection 7(i)(1) herein. At its sole discretion, the Franchisee may also provide higher levels of service to such facilities free of charge. The Franchisee shall also provide to any School for which it must provide a connection pursuant to subsection 7(i)(1) one residential cable modem, and Internet access over such modem of the same type provided to residential Subscribers, until such time as the I-Net becomes operational.

(j) *Institutional Network*

(1) **Definitions.** For purposes of this Section 7(j):

- (A) "Actual Cost" shall include all reasonable direct costs reasonably allocable to a task, but no indirect costs.
- (B) "Dark Fiber" means fiber optic strands that are capable of carrying voice, video, and data transmissions but that have not yet been activated.
- (C) "Institutional Network" or "I-Net" means a fiber-optic network related to the Franchisee's Cable System; such network is to be designed and constructed by the Franchisee and is not generally available to subscribers of the Franchisee's Cable System; together with any data-over-cable services that may be supplied to certain sites, as provided in Section 7(j)(3), allowing seamless interconnection with the fiber-optic sites.



- (D) "Work" means whatever is required of the Franchisee to perform and complete its duties under this Section. The term does not refer to activities of the Franchisee required to perform and complete its duties under other Sections of this Franchise Agreement, including but not limited to construction of subscriber network facilities.

(2) **Fiber Construction**

- (A) The Franchisee will construct the I-Net at no cost to the County or Authorized Users, linking public, educational and governmental facilities in the County, in accordance with the conditions set forth in this Franchise Agreement.
- (B) The I-Net shall be a bidirectional, fully fiber-optic network designed and constructed with single-mode fiber, in a design so that each of the designated service locations can originate and receive fully interactive video, data and voice signals.
- (C) The Franchisee shall install I-Net fiber from the County Government Center to specified sites as designated and described in Appendix 1.
- (D) The Franchisee shall collocate I-Net fiber with subscriber network fiber whenever reasonably feasible based on cable industry practices. The I-Net fibers shall be separate from any fibers utilized for the subscriber network, and the County shall have only such rights in the I-Net fibers as are set forth in Section 7(j)(6).

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- (E) At the County Government Center, I-Net fibers shall be terminated and labeled using industry standard connectors.
- (F) At each aggregation site for I-Net traffic ("Aggregation Site"), I-Net fibers shall be terminated and labeled using industry standard connectors in an area within the Aggregation Site (an "Aggregation Site I-Net Service Area").
- (G) If the Franchisee and the County conclude that sites other than the Aggregation I-Net Service Areas would be preferable for termination of I-Net fibers, they may establish such sites by mutual agreement.
- (H) Single-mode fibers each will be built to each I-Net site as designated in Appendix 1. At each I-Net site, fibers shall be terminated using industry standard connectors at a demarcation point to be agreed upon by the Franchisee and the Authorized User (the "Demarcation Point"). Any I-Net fiber starting at the Demarcation Point and extending outward from the building shall be deemed to be on the Franchisee's side of the Demarcation Point, and any I-Net fiber starting at the Demarcation Point and extending further inside the building shall be deemed to be on the Authorized User's side of the Demarcation Point.
- (I) The fiber-optic plant shall be installed to industry standards. Maximum signal loss for any link shall not exceed the manufacturer's passive cable attenuation specifications, adjusted

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for cable lengths, splice loss and connector loss. The Franchisee shall provide documentation of acceptance testing.

- (J) Franchisee shall maintain the I-Net fiber plant at a high level of reliability and will ensure that such I-Net fiber plant does not have an unreasonable number of outages as compared with other fiber-based institutional networks provided by cable operators pursuant to cable franchises.
  - (i) The fiber I-net shall be considered as experiencing an "outage" for an Authorized User when that User cannot, because of a problem resulting from the failure of any Franchisee-provided fiber optic network component or Franchisee-provided interconnect, transmit video, voice and/or data communications to from and/or on the I-net.
  - (ii) "Outage" conditions shall not include (A) infrequent scheduled preventive maintenance as long as fiber optic I-net Authorized Users are notified at least five business days in advance; or (B) *force majeure*.
- (K) Aerial cable for the I-Net may be installed free-standing or overlashed to existing strand. New underground fiber optic cable shall be buried in conduit composed of concrete or in PVC pipe or polyethylene pipe.
- (L) All I-Net wiring on the Authorized User's side of the Demarcation Point and all I-Net Aggregation Site electronics and I-Net site

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electronics, and I-Net wiring inside building Demarcation Points are the sole responsibility and property of the Authorized User. All costs associated with locating or repairing any failure which is reported to the Franchisee but which subsequently is determined to have occurred on the Authorized User's side of the Demarcation Point shall be paid for by the Authorized User.

- (M) The Franchisee shall cooperate with Comcast to the extent necessary to interconnect each system's I-Net to allow a seamless connection to be made between I-Net sites in the Franchisee's service area and those in Comcast's service area. In particular, and without limitation, the Franchisee shall install fiber to All Faith Church Road, or such other location as may be mutually agreed by the County, the Franchisee, and Comcast, and terminate such fiber in such a way that the County can most readily and inexpensively connect it with the I-Net fiber provided by Comcast.

(3) **Cable Modem Service**

- (A) The Franchisee shall provide data-over-cable services through its business-oriented cable modem service to the locations so designated in Appendix 1.
- (B) The Franchisee shall provide a minimum downstream transfer rate of 768 Kbps and an upstream transfer rate of 768 Kbps to each location connected to the cable modem service.

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(C) The cable modem service shall meet the following parameters at each site connected:

(i) Noise, Distortion and Other Performance Parameters (Downstream) – Under worst-case channel loading (including both analog and digital signals) the performance for the downstream connections shall always meet or exceed FCC performance specifications as contained in 47 CFR, Part 76, for noise, distortion and other applicable parameters.

(ii) Noise, Distortion and Other Performance Parameters (Upstream) – Under worst-case channel loading (including both analog and digital signals) the performance of the upstream connections shall always meet or be better than manufacturer's recommended specifications for cable modems, cable modem termination systems and other equipment employed by the Franchisee and the County to successfully provide data-over-cable services for the County's use.

(iii) Signal Levels (Downstream) – The minimum signal level received at any institution shall always meet or exceed FCC requirements for downstream Cable System operation.

(iv) Signal Levels (Upstream) – The input signal level received upstream at the Franchisee hub or headend shall never fall

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below, nor the maximum level exceed, manufacturer's recommended specifications for any equipment required by the County to successfully transmit data communications as envisioned in the Franchise.

- (D) The Franchisee shall offer to provide the data-over-cable services described herein in a virtual private network (VPN) environment between each location and an interconnect point at the County Government Center where data communications from each site shall be securely interconnected with the fiber I-Net.
- (E) Service response, and other data-over-cable service characteristics not specified in this Agreement shall be controlled by the terms and conditions of a Service Level Agreement negotiated between the County and the Franchisee.
- (F) The Franchisee shall impose no charges on the County or any other Authorized User for the provision of cable modem connectivity as described herein to a single cable modem at each specified location.

**(4) Coordination of Design and Construction of I-Net**

- (A) The Franchisee shall activate I-Net segments in phases as construction is completed.
- (B) The Franchisee shall submit detailed site plans for design and construction of each I-Net segment consistent with Appendix 1 at least forty-five days prior to the anticipated start of construction on

that segment in hardcopy and electronically submitted CAD files.

The County shall review and approve such detailed site plans before the Franchisee begins construction of the segment.

- (C) The Franchisee shall cooperate with the County so that, in addition to the notice provided to the County pursuant to the System design submission process generally, the County shall have as much notice as reasonably possible so that it can plan for activation and use of the I-Net as the Franchisee builds out the I-Net fiber.

(5) **Acceptance.** Construction standards shall be as specified in the Ordinance. The acceptance procedure for each I-Net site is as follows: ten (10) days in advance of testing, the Franchisee shall inform the County of an activation test. The County shall have the option to be present at the test. The Franchisee shall perform the test after terminating the fibers on both ends and will conduct the test from the connector output at both 1310 nm and 1550 nm using an optical time-domain reflectometer (OTDR) from both ends of the fiber (at the user site and at the County Government Center or aggregation site). The Franchisee shall submit the test results to the County; the County may require re-testing of the segment if the test results are not within the specifications of Section 7(j)(2)(I); if the County does not object to the performance of a segment within thirty days from the date the Franchisee submits its test results to the County, the County shall be deemed to have accepted that segment.

(6) **Indefeasible Right of Use**

- (A) The County shall possess the indefeasible right to use fiber optic plant dedicated to the I-Net and any extensions or replacements thereof installed by the Franchisee (the "Indefeasible Rights of

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Use"). The Indefeasible Rights of Use shall be perpetual and shall survive any termination of the franchise agreement.

- (B) In order to protect the County's right to continue using the Institutional Network pursuant to this Franchise Agreement, the Franchisee shall cooperate with the County in recording its indefeasible right of use interest in the fibers with the State Department of Assessments and Taxation, the County Clerk, or such other office as may be appropriate.

(7) **Maintenance.** The Franchisee shall maintain, repair and, as necessary, replace I-Net plant on the Franchisee's side of the Demarcation Point in accordance with the following procedures and conditions:

- (A) *Preventive and Routine Maintenance.* The Franchisee shall perform routine and preventive maintenance on I-Net plant in the same time and in the same fashion as routine and preventive maintenance are performed for the subscriber network, without charge to the County or other Authorized Users. In the course of performing routine and preventive maintenance, the Franchisee shall use its best efforts to identify potential trouble conditions warranting repair or replacement of I-Net plant not bundled together with subscriber network plant. The Franchisee shall as promptly as practicable report potential trouble conditions to the County.



- (B) *Service Outages.* For purposes of this Section 7(j), the term "Service Outage" shall mean any condition or damage affecting the I-Net plant on the Franchisee's side of the Demarcation Point that precludes or substantially impairs the transmission of information on the I-Net or a portion thereof.
- (C) *Response to Outages.* The Franchisee shall commence efforts to restore service for all Service Outages, whether reported to the Franchisee by the Authorized User or independently identified by the Franchisee, within twenty-four (24) hours. Upon identification of a Service Outage, the Franchisee shall, within such response time, have qualified personnel on site to investigate the outage, assess the cause and commence necessary repairs. To the extent that necessary repairs resulting in restoration of connectivity on the I-Net can be immediately accomplished, the Franchisee shall effect such repairs in connection with its investigation of the cause of the Service Outage. To the extent that repairs cannot be immediately effected, the Franchisee shall, within the response time, inform the County and any other affected Authorized User of the apparent cause of the Service Outage and the anticipated time for restoration of connectivity.
- (D) *Restoration of Service.*
  - (i) The Franchisee shall, to the maximum extent practicable, effect restoration of connectivity of any category of service

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involving I-Net plant at the same time as restoration of co-located subscriber network plant.

- (ii) In all cases the Franchisee shall complete the restoration of service in the shortest time possible.
- (E) For purposes of this Section 7(j), the term "Maintenance" shall mean any action required to restore physical fiber optic connectivity on the Franchisee's side of the Demarcation Point to the performance standards specified in Section 7(j)(2).
- (F) If any fiber optic cable in which the County has an Indefeasible Right of Use should be cut or damaged, and the responsible party is identified, then the County shall support the Franchisee's claims for damages against the responsible party.

(8) Use

- (A) The parties authorized to use the I-Net ("Authorized Users") shall be, to the extent approved by the County:
  - (i) those public, educational, and governmental entities for which I-Net sites will be constructed pursuant to Appendix 1;
  - (ii) public, educational, and governmental entities in the County of the same sorts as those specified in Section 7(j)(8)(A)(i); and

- (iii) all political subdivisions of the State located within the external boundaries of the County, and their agencies and subdivisions.
- (B) The County shall not use, or permit any third party to use, the I-Net for resale or for the transmission of third party traffic.
- (C) For purposes of this subsection 7(j)(8), "third party traffic" shall mean communications not involving at least one Authorized User.
- (D) The Franchisee shall have no control, responsibility or liability for the signals distributed over the fiber optic components of the I-Net by the County or other Authorized Users or for their benefit.
- (E) The I-Net obligations included in this Agreement do not create any rights in or enforceable by any Authorized Users, or other Users, other than the County.

**(9) Liability.** The Franchisee shall not be liable for special, consequential, exemplary, or punitive damages, or damages claimed by third parties, based on failure of performance of the I-Net, provided, however, that the Franchisee shall indemnify the County against any third-party action against the County arising out of the Franchisee's negligence, up to the maximum potential liability provided by the Limited Waiver of Governmental Immunity, Local Government Tort Claims Act, provided that the County defends against such claims. The County shall provide the Franchisee with written notice of such claims within ten (10) days of their receipt. The Franchisee shall have the right to participate at an appropriate level (as determined by the Franchisee) in defending such claims. This provision shall not be construed to

grant a right of action to any third party, nor to require any indemnification of the Franchisee by the County.

(10) **Security.** The Franchisee shall not in any way compromise the physical, optical, electronic, or signal transmission security of Authorized User communications transmitted over the I-net.

(11) **Subcontractors**

- (A) A subcontractor is an entity which has a direct contract with the Franchisee to perform a portion of the Work.
- (B) The Franchisee shall not enter into a subcontract with a proposed subcontractor with reference to whom the County has made timely and reasonable objection. The Franchisee shall not be required to subcontract with any party to whom the Franchisee has objection.
- (C) All subcontracts shall afford the Franchisee rights against the subcontractor which correspond to those rights afforded to the County against the Franchisee herein.

(12) **Other Provisions**

- (A) If the Franchisee performs any of the Work knowing it involves a recognized and material error, inconsistency or omission in this Section without notice to and approval of the County, the Franchisee shall bear the cost of correction. If the County permits the Franchisee to perform any of the Work knowing it involves a recognized and material error, inconsistency or omission in this Section without notice to and approval of the Franchisee, the

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County shall bear the cost of correction. The Franchisee's provision of its plans to the County shall not be construed to render the County responsible for the Franchisee's planning or execution of the Work or for detecting any errors, inconsistencies, or omissions therein, except to the extent specifically set forth herein.

- (B) The Franchisee shall obtain an annual Master Utility Permit from the Department of Public Works, for which no permit fees shall be charged, covering all work in the Public Rights-of-Way pursuant to its Franchise, including the I-Net Work specified in Section 7(j). To the extent required by the master utility permit, the Franchisee shall submit particular project locations to the County at or before the time work at a particular site is commenced.
- (C) The Franchisee shall supervise and direct the Work, using the Franchisee's skill and attention in accordance with accepted construction industry practices. The Franchisee shall be solely responsible for and have control over design and construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under this Section, unless this Section provides for other specific instructions concerning these matters.
- (D) The Franchisee shall keep the work areas related to the Work reasonably clean of debris generated by the Franchisee during performance of the Work. Upon final completion of Work, the

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Franchisee shall clean its work areas and remove all waste generated by the Franchisee therefrom.

(E) The County shall have access to the Work at all times from commencement of the Work through its completion pursuant to applicable law. The Franchisee shall take all reasonable steps to provide access when requested, provided, however, that such access shall not unreasonably impede efforts of the Franchisee, its subcontractors or others engaged in the Work.

(F) The indemnification, insurance, and other right-of-way management provisions of the Ordinance and this Franchise Agreement shall apply to the Work carried out by the Franchisee under this Section (as distinct from the performance of the I-Net).

(13) The Franchisee shall notify the County of the installation of any fiber optic capacity not contemplated by the initial design of the System with reasonable advance notice so that the County can determine whether it wishes to have additional fiber installed on an incremental cost basis for Institutional Network use. If the County provides sufficient advance notice to permit the Franchisee to include the additional count during construction and agrees to pay the incremental cost, then the Franchisee shall install such additional fiber as part of the Institutional Network. For purposes of this paragraph, "incremental cost" shall mean the direct costs of labor and materials that the Franchisee actually incurs in the construction of the additional fiber that would not have been incurred but for the construction of the additional fiber.

(k) *Costs and Payments Not Franchise Fees:* The parties agree that any costs to the Franchisee associated with the provision of support for PEG access pursuant to this Agreement,

and any payments made to the County pursuant to Sections 6 and 7 of this Agreement, do not constitute and are not part of a franchise fee, and fall within one or more of the exceptions to 47 U.S.C. § 542.

**8. FRANCHISE FEE**

(a) *Payment to County:* Each year during the Franchise term, as compensation for use of Public Rights-of-Way, the Franchisee shall pay to the County, on a quarterly basis, a Franchise fee of five percent (5%) of Gross Revenues. Such payments shall be made no later than thirty days following the end of each calendar quarter. If the Franchisee makes any adjustments to a payment based on recalculations or on new information, it shall make any necessary additional payments as soon as possible.

(b) *Increase in Franchise Fee:* If federal law is amended or interpreted to permit a higher franchise fee amount, either through a change in percentage or through a redefinition of Gross Revenues, the County may, in its sole discretion, increase the amount of the Franchise fee up to the maximum amount permitted under state and federal law at that time. However, the County shall provide the Franchisee with sixty days' advance notice of such an increase.

(c) *Supporting Information:* Each Franchise fee payment shall be submitted with supporting detail and a statement certified by the Franchisee's chief financial officer or an independent certified public accountant, reflecting the total amount of monthly Gross Revenues for the payment period and a breakdown by major revenue categories (such as basic service, cable programming service, premium service, etc.). The County shall have the right to require reasonable further supporting information.

(d) *Late Payments:* In the event any Franchise fee payment or recomputation amount is not made on or before the required date, the Franchisee shall pay interest charges computed

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from such due date, at an annual rate equal to the commercial prime interest rate of the County's primary depository bank during the period such unpaid amount is owed.

*(e) Audit*

(1) The County shall have the right to inspect and copy records and the rights to audit and to recompute any amounts determined to be payable under this Agreement, whether the records are held by the Franchisee, an Affiliate, or any other entity that collects or receives funds related to the Franchisee's operation in the County, including, by way of illustration and not limitation, any entity that sells advertising on the Franchisee's behalf.

(2) The Franchisee shall be responsible for providing to the County all records necessary to confirm the accurate payment of Franchise fees, without regard to by whom they are held. Such records shall be made available pursuant to the requirements of the Cable Ordinance. The Franchisee shall maintain such records for the term of its Franchise Agreement, and any renewals or extensions thereof.

(3) The County's audit expenses shall be borne by the County unless the audit discloses an underpayment of more than five percent (5%), in which case the costs of the audit shall be borne by the Franchisee as a cost incidental to the enforcement of the Franchise. Any additional amounts due to the County as a result of the audit shall be paid within thirty (30) days following written notice to the Franchisee by the County of the underpayment, which notice shall include a copy of the audit report, subject to Franchisee's right to review and dispute the proposed audit results. If recomputation results in additional revenue to be paid to the County, such amount shall be subject to interest as specified in Section 8(d).

*(f) No Limitation on Taxing Authority*

(1) Nothing in this Agreement shall be construed to limit any authority of the County to impose any tax, fee, or assessment of general applicability. By way of illustration and



not limitation, to the extent permitted by applicable law, the County may impose a tax, fee, or other assessment on any Person (other than a cable operator) with respect to Cable Service or other communications service provided by such Person over a Cable System for which charges are assessed to subscribers but not received by the cable operator.

(2) The Franchise fee payments required by this section shall be in addition to any and all taxes, fees or charges which the Franchisee shall be required to pay to the County or to any state or federal agency or authority, except to the extent that such taxes, fees or charges must be considered franchise fees pursuant to 47 U.S.C. § 542(g).

## 9. PERFORMANCE GUARANTEES AND REMEDIES

### *(a) Performance Bond*

(1) Franchisee shall obtain and maintain during the entire term of the Franchise an irrevocable performance bond in the County's favor in the amount of \$1,000,000, to ensure the Franchisee's faithful performance of its obligations.

(2) The performance bond shall provide the following condition: There shall be recoverable by the County from the principal and surety, any and all fines and penalties due to the County and any and all damages, losses, costs, and expenses suffered or incurred by the County resulting from the failure of the Franchisee to faithfully comply with the material provisions of this Agreement, the Cable Ordinance, and other applicable law; comply with all orders, permits and directives of any Municipal agency or body having jurisdiction over its acts or defaults; pay fees due to the County; or pay any claims or liens due the County. Such losses, costs and expenses shall include but not be limited to reasonable attorney's fees and other associated expenses.

(3) The performance bond shall be issued by a surety with an A-1 or better rating of insurance in Best's Key Rating Guide, Property/Casualty Edition.

(4) When (i) the System Upgrade has been completed pursuant to Sections 6(c) and 6(e), and (ii) the County has accepted all I-Net sites as specified in Section 7(j)(5) herein, the bond specified in Section 9(a)(1) shall no longer be required and shall be released upon application by the Franchisee.

*(b) Letter of Credit*

(1) The Franchisee shall file and maintain with the County an irrevocable letter of credit from a financial institution licensed to do business in Maryland in the amount of \$50,000 to serve the purposes set forth in Section 9(a). The form and content of the letter of credit shall be approved by the County.

(2) The letter of credit shall provide for thirty (30) days' prior written notice to the County of any intention on the part of the Franchisee to cancel, fail to renew, or otherwise materially alter its terms.

(3) The letter of credit shall be released only upon expiration of the Franchisee or upon the replacement of the letter of credit within the time specified herein.

*(c) Rights Cumulative:* The rights reserved to the County herein are in addition to all other rights of the County, whether reserved herein or authorized by applicable law, and no action, proceeding, or exercise of a right with respect to such Security Fund or letter of credit will affect any other right the County may have. Neither the filing of a letter of credit with the County, nor the receipt of any damages recovered by the County thereunder, shall be construed to excuse faithful performance by the Franchisee or limit the liability of the Franchisee under the terms of its Franchise for damages, either to the full amount of the letter of credit or otherwise.

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(d) *Security Fund Procedures:* The following procedures shall apply to drawing on the Security Fund:

(1) If the Franchisee fails to make timely payment to the County of any amount due under this Agreement or applicable law, or fails to compensate the County within ten (10) days of written notification that such compensation is due, for any damages, costs, or expenses the County suffers or incurs by reason of any act or omission of the Franchisee in connection with this Agreement or its enforcement, or fails, after ten (10) days' written notice, to comply with any provision of this Agreement or the Cable Ordinance that the County determines can be remedied by an expenditure of the security, the County may withdraw the amount thereof, with interest and any penalties, from the Security Fund.

(2) Within three (3) days of a withdrawal from the Security Fund, the County shall mail, by certified mail, return receipt requested, written notification of the amount, date, and purpose of such withdrawal to the Franchisee.

(3) If at the time of a withdrawal from the Security Fund by the County, the amounts available are insufficient to provide the total payment towards which the withdrawal is directed, the balance of such payment shall continue as the obligation of the Franchisee to the County until it is paid.

(4) No later than thirty (30) days after mailing of notification to the Franchisee by certified mail, return receipt requested, of a withdrawal under the Security Fund, the Franchisee shall restore the Security Fund to the total amount specified herein.

(5) Upon termination of the Franchise under conditions other than those stipulating forfeiture of the Security Fund, the balance then remaining in the Security Fund shall

be returned to the Franchisee within sixty (60) days of such termination, provided that there is then no outstanding default on the part of the Franchisee.

(e) *Failure Constitutes Material Violation:* Failure to maintain, or restore the Security Fund shall constitute a material violation of this Agreement.

(f) *Remedies:* In addition to any other remedies available at law or equity, the County may apply any one or a combination of the following remedies in the event the Franchisee violates the Cable Ordinance, this Franchise Agreement, or applicable state or federal law:

(1) Apply any remedy provided for in this Agreement.

(2) Revoke the Franchise pursuant to the procedures specified in this Agreement.

(3) Impose penalties available under the Cable Ordinance or other applicable state and local laws for violation of County ordinances.

(4) In addition to or instead of any other remedy, seek legal or equitable relief from any court of competent jurisdiction.

(5) Any action, proceeding or exercise of a right by the County under this Section does not constitute an election of remedies or a waiver of any other right the County may have, including the right to seek specific performance of a franchise obligation, provided, however, that the County shall not obtain both actual and liquidated damages for the same violation.

(g) *Liquidated Damages*

(1) The County and the Franchisee agree to the amounts of liquidated damages listed in Section 11(b) of the Cable Ordinance.

(h) *Revocation or Termination of Franchise*

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(1) Upon completion of the term of any Franchise granted under this Ordinance, if a new, extended, or renewed Franchise is not granted to the Franchisee by the County, the Franchisee's right to occupy the Public Rights-of-Way shall terminate, subject to applicable federal law.

(2) The County shall have the right to revoke the Franchise for the Franchisee's material failure to construct, operate, or maintain the Cable System as required by this Ordinance or a Franchise Agreement, or for any other material breach of this Agreement or material violation of the Cable Ordinance.

(3) To revoke the Franchise, the County shall give the Franchisee written notice of the default in its performance. If within thirty (30) calendar days following such written notice from the County to the Franchisee, or such other period as the Franchise Agreement shall require or the Franchisee and the County shall agree, the Franchisee has not taken corrective action to the satisfaction of the County, the County may give written notice to the Franchisee of its intent to revoke the Franchise, stating its reasons; provided that no opportunity to cure shall be provided where the Franchisee is shown to have defrauded or attempted to defraud the County or its Subscribers.

(4) Prior to revoking the Franchise, the County shall hold a public hearing, on thirty (30) calendar days' notice to the Franchisee, specifying its reasons for proposing revocation, at which time the Franchisee and the public shall be given an opportunity to be heard. Following the public hearing, the County may determine whether to revoke the Franchise based on the information presented at the hearing, and other information of record, or, where applicable, grant additional time to the Franchisee to effect any cure. If the County determines to

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revoke the Franchise, it shall issue a written decision setting forth the reasons for its decision. A copy of such decision shall be transmitted to the Franchisee.

(5) If the County revokes the Franchise, or if for any other reason the Franchisee abandons, terminates, or fails to operate or maintain service to its Subscribers, the following procedures and rights are effective:

- (A) The County may require the former Franchisee to remove its facilities and equipment at the former Franchisee's expense and restore affected sites as required in Section 5(b), or permit the former Franchisee to abandon such facilities in place. If the former Franchisee fails to do so within a reasonable period of time, the County may have the removal done at the former Franchisee's and/or surety's expense.
- (B) The County may require the former Franchisee to continue operating the Cable System as specified in Section 4(d).
- (C) In the event of revocation, the County, by resolution, may acquire ownership of the Cable System at its then-fair market value.
- (D) If a Cable System is abandoned by the Franchisee or the Franchisee fails to operate or maintain service to its Subscribers or otherwise terminates the Franchise, the ownership of all portions of the Cable System in Public Rights-of-Way shall revert to the County and the County may sell, assign, or Transfer all or part of the assets of the System.

**10. MISCELLANEOUS PROVISIONS**

(a) *Binding Acceptance:* This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, and trustees.

(b) *Severability*

(1) If any term, condition, or provision of this Agreement shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the County and shall thereafter be binding on the Franchisee and the County.

(2) If the terms of this Agreement are materially altered due to changes in governing law, then the parties shall negotiate in good faith to reconstitute this Agreement in a way consistent with then-applicable law in a form that, to the maximum extent possible, is consistent with the original intent of the parties and preserves the benefits bargained for by each party.

(c) *Franchisee Bears Its Own Costs:* Unless otherwise expressly provided in this Agreement, all acts that the Franchisee is required to perform must be performed at the Franchisee's own expense. This provision shall not affect any rights the Franchisee may have to itemize costs on Subscriber bills or to pass through certain costs in regulated rates.

(d) *County Bears Its Own Costs:* Unless otherwise expressly provided in this Agreement, all acts that the County is required to perform must be performed at the County's own expense.

(e) *Force Majeure:* Notwithstanding any other provision of this Agreement, the Franchisee shall not be deemed in default of provisions of this Agreement or the Cable

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Ordinance where such default was caused by severe and unusual weather conditions, war or riots, labor strikes or civil disturbances, unreasonable action or inaction by utilities whose cooperation is necessary for compliance, fire, floods, other acts of God, unavailability of materials and/or qualified labor despite the Franchisee's reasonable best efforts, sabotage, or other causes beyond the Franchisee's reasonable control. In the event that any such default affects only part of the Franchisee's ability to perform, the Franchisee shall perform to the maximum extent it is able to perform and shall take reasonable steps within its power to correct such cause(s) in as expeditious a manner as possible, provided that the Franchisee takes immediate and diligent steps to bring itself back into compliance and to comply as soon as possible under the circumstances with the Franchise without unduly endangering the health, safety, and integrity of the Franchisee's employees or property, or the health, safety, and integrity of the public, Public Rights-of-Way, public property, or private property.

(f) *Governing Law:* This Franchise Agreement shall be governed in all respects by the law of the State of Maryland.

(g) *Notices:* Unless otherwise expressly stated herein, notices required under this Franchise Agreement shall be mailed first class, postage prepaid, to the addressees below. Each party may change its designee by providing written notice to the other party, but each party may only designate one entity to receive notice.

(1) Notices to the Franchisee shall be mailed to:

Terrence J. Herron, Executive Vice President  
Gans MultiMedia Partnership  
1059 East Tenth Street  
Hazleton, PA 18201

(2) Notices to the County shall be mailed to:

County Administrator



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23115 Leonard Hall Drive  
P.O. Box 653  
Leonardtown, MD 20650

with a copy to:  
County Attorney  
23115 Leonard Hall Drive  
P.O. Box 653  
Leonardtown, MD 20650

(3) The Franchisee shall at all times keep the County advised as to which individual(s) are authorized to act on behalf of the Franchisee and whose acts will be considered to bind the Franchisee.

*(h) Captions and References*

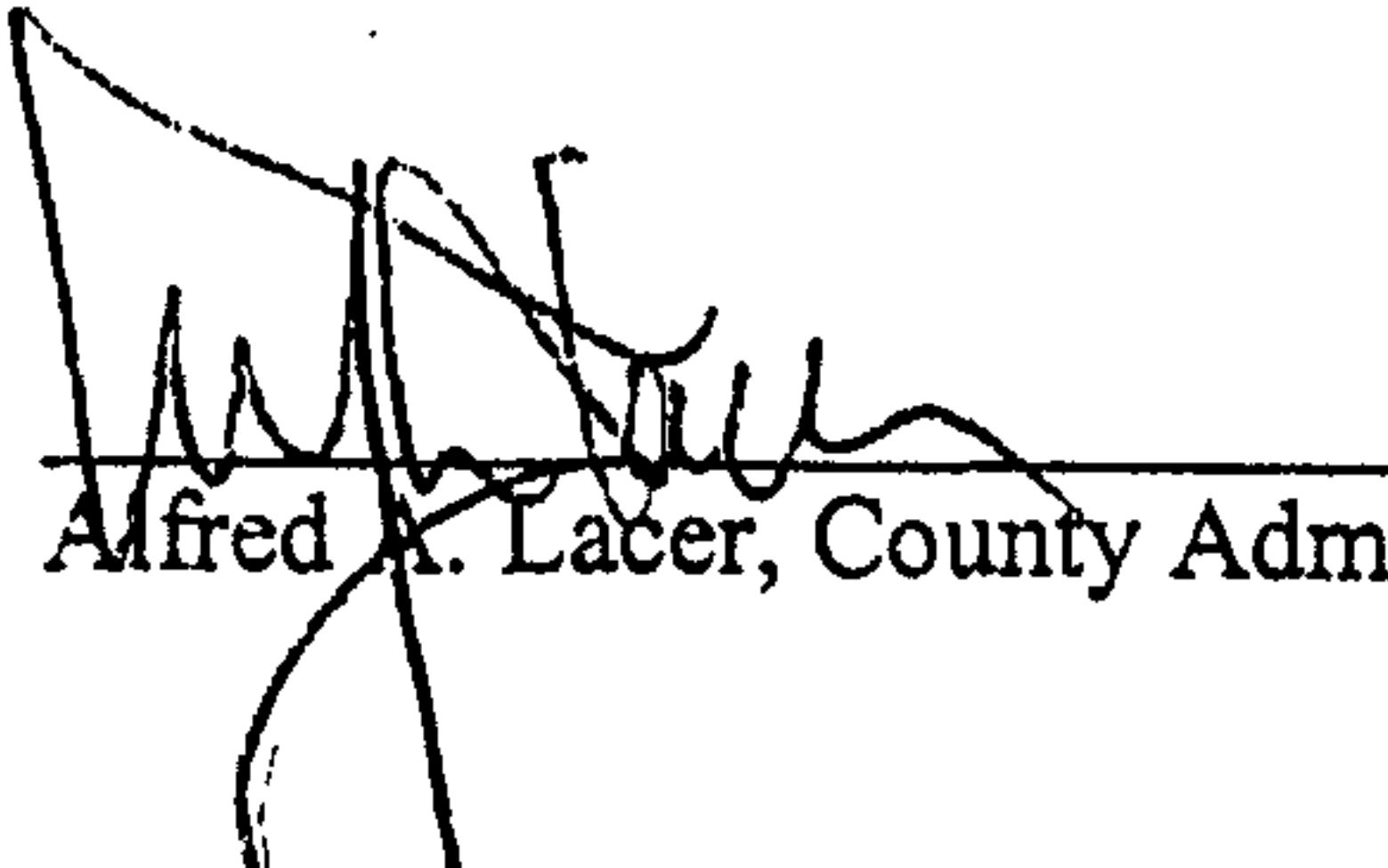
(1) The captions and headings of sections throughout this Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Agreement. Such captions shall not affect the meaning or interpretation of this Agreement.


(2) When any provision of the Cable Ordinance is expressly mentioned herein, such reference shall not be construed to limit the applicability of any other provision of the Cable Ordinance or County law that may also govern the particular matter in question.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as<sup>1</sup> of this 18<sup>th</sup> day of February, 2003 (such date being the "Effective Date" referred to in Section 2(a) of this Agreement).

ATTEST:

Board of County Commissioners  
for St. Mary's County, Maryland,

  
Alfred A. Lacer, County Administrator

By:   
Thomas F. McKay, President

02/18/03 TUE 14:51 FAX 5704590963  
Feb 18 03 12:30p SO


GANS

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002  
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APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
County Attorney

GANS MULTIMEDIA PARTNERSHIP  
a Pennsylvania general partnership

By:   
Terrence J. Herron, Executive Vice President

GANS COMMUNICATIONS, L.P.  
a Delaware limited partnership

By:   
Joseph F. Gans, III, President,  
Gans Communications, LLC, General Partner

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APPENDIX 1

**INSTITUTIONAL NETWORK  
SITES**

Dark Fiber Locations

	Location	Address	Town	Fiber Count	Aerial Miles	Undgrd ft.	Undgrd Plant	Boring ft.
	County Government							
1	Governmental Center	23115 Leonard Hall Drive	Leonardtown	As required	0	1400	0	20
2	Health Department	21580 Peabody Street	Leonardtown	2	0.5	600	0	25
3	Sheriff's Office	41650 Tudor Hall	Leonardtown	2	0.8	125	0	15
4	Public Works	44825 St. Andrews Church Rd.	California	2	11.5	680	0	0
5	Marcy House	41550 Doctors Crossing Rd.	Leonardtown	2	1.11	2640	0	15
6	MeComm	21801 Commerce Drive	Hollywood	2	8.76	325	0	0
7	Chancellors Run Park	21905 Chancellors Run Rd.	Great Mills	2	11.23	1200	0	20
8	Airport/Sheriffs Outpost	44174 Airport Rd.	California	2	10.59	2500	0	100
9	Old Lexington Library	21744 South Coral Dr.	Lexington Park	2	13.16	130	1200	30
	Volunteer Fire Department							
10	Bay District VFD	45774 Fire Department Ln.	California	2	9.59	350	0	55
	St. Mary's County Libraries							
11	Lexington Park Library	46758 Shangri-La Drive	Lexington Park	2	13.65	200	0	0
12	Leonardtown Library	23250 Hollywood Rd.	Leonardtown	2	1.27	300	0	60
13	Charlotte Hall Library		Charlotte Hall	2				
	St. Mary's County Schools							
14	Central Administration	23160 Moakley Street	Leonardtown	4	1.68	2640	0	0
15	Esperanza Middle School	22790 Maple Road	Lexington Park	2	10.68	450	0	0
16	Leonardtown Middle School	24015 Point Lookout Road	Leonardtown	2	2.8	500	0	65
17	Margaret Brent Middle School	29675 Point Lookout Road	Helen	2	18.02	100	0	0
18	Spring Ridge Middle School	19856 Three Notch Road	Lexington Park	2	15.72	785	1200	0
19	Chopticon High School	25390 Colton Point Road	Morganza	2	8.99	600	0	25
20	Great Mills High School	21130 Great Mills Road	Great Mills	2	11	250	0	0

21	Leonardtown High School	23995 Point Lookout Road	Leonardtown	2	9.2	800	0	0
22	Tech Center/ALT Learning Center	24005 Point Lookout Road	Leonardtown	4	9.2	0	0	0
23	Bethune Technical Center	22975 Colton Point Road	Bushwood	4	10.3	0	0	0
24	Loveville School	27180 Point Lookout Rd.	Loveville	4	6.3	450	0	20
25	St. Mary's Ryken High School							
	Higher Education Institutions							
26	Southern Md. Higher Ed Center	44219 Airport Rd.	California	2	10.59	1600	0	45
27	College of Southern Maryland	22950 Hollywood Rd.	Leonardtown	2	0.42	1000	0	60
28	St. Mary's College	18952 East Fisher Rd.	St. Mary's City	2	16.22	400	0	100.
29	St. Mary's Hospital	25500 Point Lookout Road	Leonardtown	4	1.12	1056	0	80
	Tower Locations							
30	Mechanicsville	28306 Flora Corner Rd.	Mechanicsville	6	15.2	1050	0	0
31	California	45774 Fire Dept. Ln.	California	2	9.2	400	0	55
32	Dameron	18248 Three Notch Rd.	Dameron	2	18.3	1000	1875	0
33	Governmental Center	41875 Baldrige St.	Leonardtown		0	1550	0	40
<b>Totals</b>					257.1	25081	4275	830

High Speed Cable Modem Locations

Downstream

Site #	Location	Address	Town	Modem Speed
1	County Government St. Clement's Island Museum	38370 Point Breeze Road	Colton's Point	1 Mbps
2	Volunteer Fire Department Ridge VFD	13820 Point Lookout Rd.	Ridge	1 Mbps
3	Ridge VRS	16515 Three Notch Road	Ridge	1 Mbps
4	Lexington Park VRS (Co. 39)	21633 Great Mills Road	Lexington Park	1 Mbps
5	Lexington Park VRS (Co. 38)	45945 Buck Hewitt Road	Lexington Park	1 Mbps
6	Leonardtown VRS	22855 Lawrence Ave	Leonardtown	1 Mbps
7	Leonardtown VFD	22733 Lawrence Ave	Leonardtown	1 Mbps
8	Second District VRS/VFD	45245 Drayden Road	Valley Lee	1 Mbps
9	Hollywood VRS	43256 Rescue Lane	Hollywood	1 Mbps
10	Hollywood VFD	24801 Three Notch Road	Hollywood	1 Mbps
11	Seventh District VFD	21660 Colton's Point Road	Avenue	1 Mbps
12	Seventh District VRS	21530 Colton's Point Road	Avenue	1 Mbps
13	Mechanicsville VFD	28165 Hills Club Road	Mechanicsville	1 Mbps
14	Mechanicsville VRS	28120 Old Flora Road	Mechanicsville	1 Mbps
	Police Department			
15	Maryland State Police	23200 Hollywood Road	Leonardtown	1 Mbps
	St. Mary's County Schools			
16	Student Services	22699 Washington Street	Leonardtown	1 Mbps
17	Carver Elementary	47382 Lincoln Avenue	Lexington Park	1 Mbps
18	Lettie Marshall Dent Elementary	37840 New Market Turner Road	Mechanicsville	1 Mbps
19	Dynard Elementary	23510 Bushwood Road	Chapico	1 Mbps
20	Green Holly Elementary	46060 Millstone Landing Road	Lexington Park	1 Mbps
21	Greenville Knolls Elementary	45711 Military Lane	Great Mills	1 Mbps
22	Hollywood Elementary	44345 Joy Chapel Road	Hollywood	1 Mbps

23	Leonardtown Elementary	22885 Duke Street	Leonardtown	1 Mbps
24	Lexington Park Elementary	46763 Shangri-La Drive	Lexington Park	1 Mbps
25	Mechanicsville Elementary	28585 Three Notch Road	Mechanicsville	1 Mbps
26	Oakville Elementary	26410 Three Notch Road	Mechanicsville	1 Mbps
27	Park Hall Elementary	20343 Hernanville Road	Park Hall	1 Mbps
28	Ridge Elementary	49430 Airedale Road	Ridge	1 Mbps
29	Town Creek Elementary	45805 Dent Drive	Lexington Park	1 Mbps
30	White Marsh Elementary	29090 Thompson Corner Road	Mechanicsville	1 Mbps
31	Piney Point Elementary	44550 Tall Timbers Road	Tall Timbers	1 Mbps
32	Father Andrew White School			
33	Holy Angel-Sacred Heart School			
34	Lexington Park Christian School (a.k.a. King's Christian Academy)			
35	Little Flower School			
36	Mother Catherine Spalding School			
37	St. John's School			
38	St. Michael's School			
39	Leonard Hall Junior Naval Academy			

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APPENDIX 2

**PEG SUPPORT LETTER**



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# **GMP**

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## **CABLE TV**

www.gmpcabletv.com

*Gans Multimedia Partnership*  
Appendix 2

February 18, 2003

County Commissioners for St. Mary's County  
ATTN: George Forrest,  
Deputy County Administrator  
Office of the County Administrator  
23115 Leonard Hall Drive  
Leonardtown, MD 20650-0653

**RE: GANS MULTIMEDIA PARTNERSHIP/  
GANS COMMUNICATIONS, L.P.  
CABLE FRANCHISE AGREEMENT**

Dear Mr. Forrest:

In connection with the renewal of the Cable Franchise Agreement for St. Mary's County (the "County") with Gans Multimedia Partnership/Gans Communications, L.P. ("Gans"), this letter shall constitute a supplement to the franchise which has been negotiated between Gans and the County ("Renewal Franchise"), and shall be effective upon the effective date of the Renewal Franchise and binding on all successors and assigns of Gans.

In connection with the operation of a production studio at the Dr. James A. Forrest Career and Technology Center (the "Center") and such studio's use for public access as provided in the Renewal Franchise, upon receipt by Gans of written confirmation from the County (or its duly appointed designee) that the Center is operational, then the County and Gans agree that the following shall constitute an amendment to and part of the Renewal Franchise:

- A. Except as provided in Paragraph D hereof, Gans will on a quarterly basis and within thirty (30) days of receipt of a properly substantiated invoice from the County (or its designee), provide a monetary grant of up to, but not exceeding \$4000.00 for the immediately preceding calendar quarter (the "Quarterly Grant").
- B. The Quarterly Grant shall be for the sole and exclusive purpose of reimbursing the County (or its designee) for staffing the Center for public access activities after-hours and on weekends to perform the following duties: (i) make the public access equipment available, (ii) properly check

44150 Airport View Dr.  
Hollywood, MD 20636  
301.373.3201  
fax 301.373.3757

1059 East Tenth Street  
Hazleton, PA 18201  
570.455.4251  
fax 570.459.0963

5773 West Lazy Heart St.  
Tucson, AZ 85713  
520.578.0382  
fax 520.578.0758

St. Mary's County  
ATTN: George Forrest,  
Deputy County Administrator

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DATE

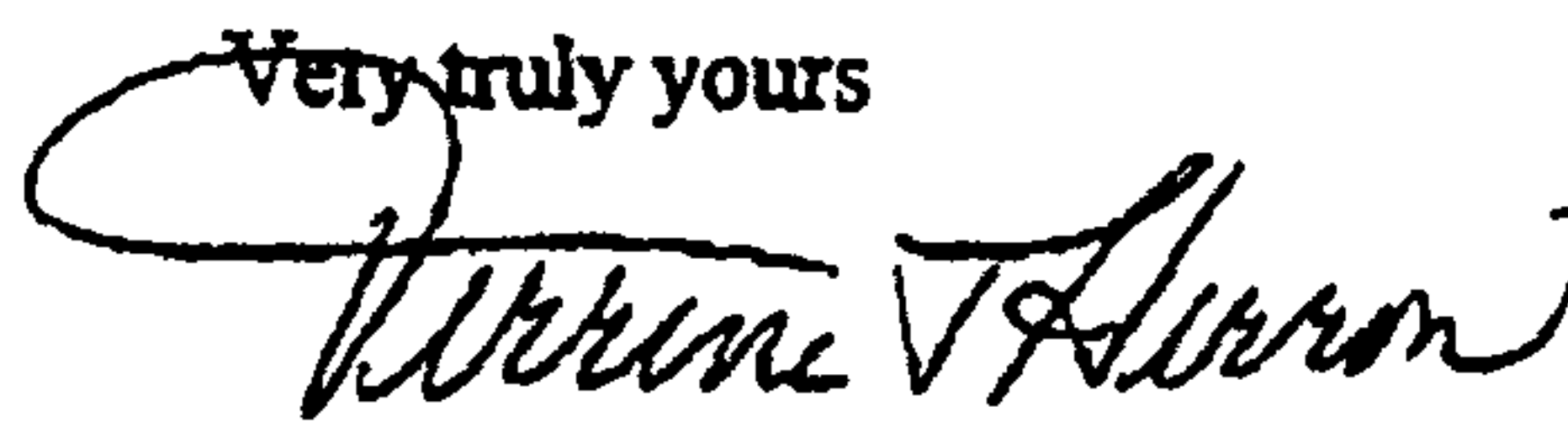
Page 2

in and check out such equipment pursuant to the procedures adopted by the County for the use of the production studio for public access ("the Rules"), (iii) prepare and maintain accurate, proper and timely records relating to public access usage and activities and (iv) provide instruction to the public interested in utilizing the public access equipment.

- C. Gans shall not be required to reimburse the County (or its designee) in any Quarterly Grant for any staffing costs, expenses or periods of time for which such person is not, directly engaged in performing the duties set forth in paragraph B above or for periods during which the Center is not utilized for public access activities in a manner consistent with the Rules.
- D. For a period of approximately six months after the Center becomes operational, Gans will provide additional support as needed to train public access users to use the Center's equipment to produce public access programming. At its option, Gans will either provide cable system personnel or will provide monetary support for such staffing in excess of \$4,000 per quarter as provided for in Paragraph A hereof. Gans will remit to the County the funds for such training as may be required pursuant to the procedure contained in Paragraph A hereof.

If the foregoing meets with your approval, please countersign the original of this letter and return it to me.

Very truly yours



TERRENCE J. HERRON  
Executive Vice President  
Gans MultiMedia Partnership

TJH/tav

AGREED TO AND ACCEPTED this 18<sup>th</sup> day of February, 2003.

02/18/03 TUE 13:42 FAX 5704590963

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St. Mary's County  
ATTN: George Forrest,  
Deputy County Administrator

DATE  
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COUNTY COMMISSIONERS FOR ST.  
MARY'S COUNTY

BY: Thomas F. McKay  
THOMAS F. MCKAY, PRESIDENT