

ST. MARY'S COUNTY  
BOARD OF COUNTY COMMISSIONERS

December 17, 1991

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

**CALL TO ORDER**

The meeting was called to order at 9:10 a.m.

**APPROVAL OF MINUTES**

Commissioner Lancaster moved, seconded by Commissioner Thompson, to approve the minutes of the Commissioners' meeting of Tuesday, December 10, 1991. Motion carried.

**APPROVAL OF BILLS**

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

**ALPD #89-0429 - VIRGINIA COX**

Present: Virginia Cox  
Judith O'Brien, O'Brien Realty

The referenced individuals appeared before the Commissioners to request termination of the Agriculture Land Preservation District for 11.66 acres of the Woodlawn in Ridge. Mr. Cox had passed away in 1990 and Mrs. Cox has sold the property. Mrs. O'Brien explained that the 11.66 acres, which is residential, had been inadvertently included in the ALPD. Mrs. Cox is now applying for an exception for that 11.66 acre site under the hardship rule. The Maryland Department of Agriculture has requested a letter from the Board of County Commissioners expressing no objection to releasing Mrs. Cox from the Agriculture Land Preservation District for the 11.66 acre house site. Mrs. O'Brien indicated that the buildings on that site are protected under the Maryland Historical Trust.

After discussion Commissioner Bailey moved, seconded by Commissioner Jarboe, that the Board of County Commissioners of St. Mary's County do not have objection to the 11.66 acres being released from the Agricultural Land Preservation District. Motion carried.

Later in the meeting County Administrator Cox presented correspondence to the Maryland Agricultural Land Preservation Foundation indicating that the Commissioners have no objection to the request by Mrs. Cox to remove from the Agricultural Land Preservation Program approximately 11 acres of land and improvements thereon as described and recorded in the Land Records of St. Mary's County.



**PATUXENT RIVER COMMISSION  
PATUXENT RIVER DEMONSTRATION PROJECT**

Present: Senator Bernie Fowler, Chairman  
Ray Puzio, Maryland Office of Planning  
Joseph Tassone, "  
Mike Haire, Department of Environment

The referenced individuals appeared before the Commissioners to give a briefing on the Patuxent River Demonstration Project and the Patuxent River Action Plan. Senator Fowler explained that the Patuxent River Demonstration Project will be used as a national demonstration site, and the federal government has provided grant funds to the state, which will be distributed to the seven counties on the Patuxent River, for the two phases of the project.

Mr. Puzio presented copies of the Patuxent River Commission Action Program 1991 - 1992 prepared by the Maryland Office of Planning which indicated that the Plan was approved by all seven counties in the Patuxent River Basin and the General Assembly in 1984. The 1991-1992 Plan differs from past reports in that it needed a degree of accountability and therefore contains an evaluation of several previous programs. Each County will be required, after proposing a certain action, to demonstrate that something had been accomplished.

Mr. Haire reviewed the objectives, purpose and approach of the Patuxent Demonstration Project pointing out that the Patuxent River has reached its goals in all but the nonpoint source nitrogen loads. He indicated the importance of a cooperative efforts between the county and the state for this project.

Mr. Tassone presented the proposed Patuxent Demonstration Organizational Chart, the background, scope of the project, Phase I activities and county participation, and Phase II activities and county participation.

Mr. Tassone explained that the federal government grant for Phase I is \$1.25 Million with \$30,000 going to each county requiring a \$15,000 match. Phase II from the federal government will be \$225 Million requiring \$25,000 from each county. Discussion ensued as to whether the match would be "hard cash" or would be allowed to be in-kind.

Commissioner Loffler expressed concern relative to state funding and whether the State would live up to its commitment.

In closing Mr. Tassone requested the Commissioners to designate a coordinator from St. Mary's County to work on the Demonstration Project. The Commissioners will act on this designation at a later meeting.

**ST. MARY'S COUNTY GOVERNOR'S CITIZENS' CABINET**

Present: John Parlett, Jr. (Governor's Appointment)  
F. Elliott Burch, Jr.  
Stu Fitrell  
Viola Gardner  
Bradford Reeves  
Chuck Rosenfield

The referenced individuals appeared before the Commissioners to present a report on the establishment and activities of the Governor's Citizens' Cabinet. Mr. Parlett explained the purpose of the cabinet was to provide a two-way flow of ideas and information between the people of Maryland and the Governor. He stated that the Governor selected a representative from each county and Baltimore City to serve on the cabinet and that he serves as St. Mary's representative, replacing George Sullivan who had passed away.



Mr. Parlett advised that the group of 14 citizens he has selected for St. Mary's County represents diverse occupations and backgrounds and is a good cross section of the community. The group began meeting in October and areas of discussion at its meetings included the Southern Maryland Wood Treatment site, highway improvements in conjunction with Patuxent River Naval expansion, NESEA, and agricultural community concerns.

Commissioner Loffler indicated the importance of having citizens involved and stressed the need for proper communication flow and that there not be another layer of bureaucracy for Government.

Mr. Reeves spoke to the need for St. Mary's County to be included in a certification program to help preserve farm land. He stated that if the county was to become certified, 75% of the agriculture transfer tax would come to St. Mary's County as opposed to the current 33%. Mr. Reeves presented a copy of the requirements for certification and the legislation setting forth the certification program.

In closing the Commissioners expressed appreciation to the St. Mary's Cabinet members and offered their cooperation.

#### **ST. MARY'S COUNTY MENTAL HEALTH PLAN**

Present: Frank Sullivan, Director, Mental Health and Rehabilitation  
Mary Clements

Mr. Sullivan appeared before the Commissioners to present the 1991-1994 County Mental Health Plan for St. Mary's County for the Commissioners' review and approval for submission to the State. He advised that the Plan, developed by a committee of citizens, agency directors, and staff, identifies a number of needs not being met for the mentally ill. Mr. Sullivan pointed out that because of state budget reductions, the Plan had been down-sized accordingly and makes maximum use of available resources. The Plan has: specified the components of a comprehensive service system, identified current resources, identified gaps and/or needs, established responsibility for meeting needs, and recommended funding priorities. Mr. Sullivan indicated that a separate plan for the seriously mental ill youth will be developed within a year.

After discussion the Commissioners agreed to take action on the Plan in two weeks (December 31).

#### **USER FEES**

Present: Mary Pat Pope, Administrative Officer

##### **1. Sedimentation and Grading Plan Review Fees**

Also Present: Bruce Young, Soil Conservation

Ms. Pope and Mr. Young appeared before the Commissioners to present a proposal for increased fees for sedimentation and grading plan review fees through the Soil Conservation Office. Application Fee for Review of Plans would increase from \$10 to \$20 per plan; Review Fee for Other Plans will be \$70 for first ten acres and \$50 per acre for each additional acre over ten. Ms. Pope advised that the Soil Conservation had evaluated current costs incurred in providing these services and recommends the updated fee schedule.

In response to an inquiry from Commissioner Loffler, the County Administrator pointed out that the reason this fee structure is not a part of the county's annual budget process is because is separate from county government. Ms. Pope stated that the Environment Article of the Maryland Annotated Code requires the County to adopt a fee schedule.

After discussion Commissioner Jarboe moved, seconded by Commissioner Lancaster, to approve and sign Resolution No. 91-44 adopting the Sediment Control and Grading Plan Review Fees. Motion carried.



2. Six Month Review of User Fees

Also Present: Jon Grimm, Director

Ms. Pope and Mr. Grimm presented a review of the user fees for the period July 1, 1990 through June 30, 1991 showing cost allocation; average volume for FY 1988, 1989 and 1990; Fiscal Year 1991; Fiscal Year 1991 user fee revenues; and revenues minus costs. Also presented was a six-month review for the period April 1, 1991 through September 30, 1991 showing six-month allocation, six-month average volume (FY 1988, 1989 and 1990); volume, and six month user fee revenue and revenues minus costs.

During discussion Mr. Grimm advised that the Planning Commission has developed a formal process for review and approval of subdivision plans which has caused the department to look at the way the fee schedule was established. He stated that there is also a formal concept plan review of subdivisions where before it had been done on a voluntary basis. Mr. Grimm pointed out other areas not covered in the fee schedule which require considerable staff time such as (but not limited to) water/sewer amendments, Board of Appeals activity, and critical area review. He stated that staff will return to the Commissioners with recommendations.

DEPARTMENT OF PUBLIC WORKS

Present: Dan Ichniowski, Director

1) CORRESPONDENCE CALLING LETTERS OF CREDIT

Mr. Ichniowski presented the following correspondence calling Letters of Credit:

Old California Post Office (Gunston Drive)

To First National Bank of St. Mary's calling  
Letter of Credit #A3-8-23-1991  
in the amount of \$1,500  
for Construction Permit #CP 08/92 ROW-03

Woodlake II Condos, Phase I

To First National Bank of St. Mary's calling  
Letter of Credit #A2-2-1991  
in the amount of \$44,200  
for Grading Permit #91-20

Lot 1, Dexter Subdivision

To Calvert Bank and Trust Company  
Letter of Credit #345  
in the amount of \$5,800  
for Grading Permit #90-18

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the correspondence calling Letters of Credit as presented, to be forwarded if necessary. Motion carried.

COUNTY ADMINISTRATOR

Present: Edward V. Cox, County Administrator

1) APPOINTMENTS - ECONOMIC DEVELOPMENT COMMISSIONS

Commissioner Bailey moved, seconded by Commissioner Lancaster, and motion carried, to appoint Bob Waxman to the Economic Development Commission for a term to expire June 30, 1994.



2) **CORRESPONDENCE TO BOARD OF EDUCATION**

The County Administrator presented the following items of correspondence addressed to the Board of Education:

- Requesting copies of the Board of Education has negotiated with Board employees.
- Requesting that all capital projects involving county funds be furnished to the County Commissioners for their review and approval prior to award of the contract, or a change order to existing contracts.

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

3) **PERSONNEL**

The County Administrator presented the following items of personnel for the Commissioners' review and consideration:

- Office on Aging

Memorandum dated December 17, 1991 from Personnel Officer requesting approval for the reassignment of Helen Thompson from full time, Grade 15, grant funded position of Activity Coordinator to full time Grade 15, grant funded position of Senior I&A Case Worker, replacing Rita Bakewell who will be retiring, effective December 31, 1991.

- Sheriff's Department

Memorandum dated December 17, 1991 from Personnel Officer requesting approval of the appointment of Michael W. Thompson as a Deputy Sheriff, Grade 19, Step 1, effective December 23, 1991. The request is an exception to current hiring procedures as it will allow the Sheriff's Department to directly hire a fully trained Deputy, receive the services of a new fully trained Deputy in a more timely fashion, and save the County approximately \$12,000 in training costs as no further entrance training will be required.

Commissioner Bailey moved, seconded by Commissioner Thompson, to approve the referenced personnel items as presented. Motion carried.

4) **CORRESPONDENCE TO SECRETARY WASSERMAN**

The County Administrator presented correspondence addressed to Secretary of Maryland Department of Economic and Employment Development Wasserman thanking him for his department's representation at the dedication of the new Naval Electronics Systems Engineering Activity facilities on December 12. the letter forwards a copy of the Community Response report relative to the Naval Air Warfare Center Aircraft Division.

The Commissioners agreed to sign and forward the letter.



5) **CORRESPONDENCE TO CATHERINE LACEY**

The County Administrator presented correspondence addressed to Catherine Lacey responding to concerns identified in her December 2 letter relative to the heating system in her apartment at Joe Baker Village in Lexington Park. The letter indicates that the Housing Authority has found the heating units operating properly.

The Commissioners agreed to sign and forward the letter.

6) **CORRESPONDENCE TO JOAN DESIMONE**

The County Administrator presented correspondence addressed to Joan Desimone responding to her inquiry regarding the use of tipping fee revenues. The response states that the revenues are allocated to cover the operating and capital costs of the solid waste program.

The Commissioners agreed to sign and forward the letter.

7) **STATE LEGISLATIVE NETWORK**

The County Administrator presented a memorandum dated December 10 from Maryland Association of Counties requested elected officials and county administrators to designate which legislators they have a close working relationship with in order to provide a legislative network. County Administrator Cox to make their selections for submission to MACo.

**BOARD OF COUNTY COMMISSIONERS/BOARD OF EDUCATION AUDITORS' MEETING**

Present: Charles Wade, Director of Finance

Mr. Wade stated that at the last joint meeting of the two referenced boards, there was agreement that the auditors of the two boards meet to discuss the Cox, Long and Colvin Management Letter. Mr. Wade inquired as to which board would be responsible for paying the County's auditor. The Commissioners agreed that the County would be responsible.

**DEPARTMENT OF PLANNING AND ZONING**

**PUBLIC HEARING**

**CWSP #90-1245 - JOYNER PROPERTY**

Present: Jon Grimm, Director  
Peggy Childs, Recording Secretary

Requesting change in sewer category from S-6 to S-3 to allow sewer connection for 16 vacant lots to the St. Clements Shores WWTP. the subject property contains one acre, is zoned RNC, and is located on the east side of Bayside Road, approximately 1,250 feet north of Lady Baltimore Avenue in Compton; Tax Map 39B, Lots 49-56 and Lots 110-120 of Block 24, St. Clements Woods.

Owners/Applicants Robert and Dorothy Joyner were present.

Legal Ad was published in The Enterprise on 11/29/91 and 12/4/91.

Mr. Grimm advised the specific request is to amend the Comprehensive Water and Sewer Plan to change the sewer category for this property from S-6 a "no planned service: category to S-3D, for "service within 3-5 years." He summarized the background contained in the Staff Report, including information that several tests have determined the property unsuitable for on-site sewage disposal, including an I & A "mound" system.



The Water/Sewer Plan category change is required to allow the Joyners to install a sewer system for hookup to the St. Clements Shores Treatment Plant. Mr. Grimm said the property is governed by the St. Clements Shores WWTP Allocation Policy, Resolution No. 84-22, under which staff considers this property as Priority Three, with First Priority given to existing septic failures within reasonable proximity of the public sewerage system, and Second Priority to existing houses or businesses within reasonable proximity which desire to connect. Priority Three is for undeveloped properties that have obtained site plan or subdivision approval from the Planning Commission.

Also based on this policy there is a limitation as to the number and size of properties which can be served by the Plant. With a property of one acre up to five EDU's could be allocated, and the Joyners have applied for the five. However, the allocations are assigned by the Planning Commission, and are a separate issue from this public hearing for the category change.

This application has been reviewed by the TEC and a public hearing was conducted by the Planning Commission as required under the new State law. MetComm and Environmental Health have both indicated no objections to the hookup, should sufficient capacity be available at the Plant, which is the outstanding issue in this application.

The St. Clements Shores WWTP was originally designed to treat 100,000 gallons of effluent per day, Mr. Grimm said. Up until April 11, 1991 that meant there were 357 EDU's available to serve development. In June of 1989 all 357 allocations had been granted. In April 1991, at the request of MetComm, the MDE approved a proposal reducing the average flow figure, based upon past history of the plant, to allow 43 EDU's of additional capacity or 400 EDU's total capacity.

Mr. Grimm stated Environmental Health is in the process now, or will be shortly, of conducting a sanitary survey of the area to determine whether there are additional failing systems which may warrant allocations from the Plant. The survey is expected to be concluded, in conjunction with the W/S Update, at the end of January 1992.

The Staff Report also provides an analysis as required by the new State Code provisions of House Bill 601; they are part of the record and were included in the Planning Commission's consideration of this application. In this analysis, the application is found to be incompatible with the Comprehensive Plan, which discourages public sewerage facilities in the RPD except for the alleviation of health hazards.

As a result of the Public Hearing held by the Planning Commission on October 28, 1991 and continued to November 12, 1991, the Commission recommended denial of the request pending results of the sanitary study, on the basis that approval would be inconsistent with Comprehensive Plan policy. The Commission stated, however, that should the Joyners wish to resubmit their request following the results of the sanitary study in January 1992, they should not be precluded from doing so, and no additional waiting period should be required.

Staff also recommends denial, also based on Comprehensive Plan policy.

Commissioner Thompson stated the Commissioners had received a note from Tom Russell, Environmental Health, stating that, because of the dryness of the Fall, he was concerned there would not be enough wetness in the soil to conduct wet-month percs. She asked if there is a possibility that the sanitary survey could be delayed because of that. Mr. Grimm stated he would contact Mr. Russell and ask the question, but it was his and Mr. Jackman's belief, as recently as this morning, it would still be completed in the January 1992 timetable.



Mr. Joyner pointed out that they had paid good money to have the perc and mound tests done, but stated they would like to request the removal of their sewer category and nullification of the sale of the property, with funds to be returned to them for the value of the land and taxes, because the property was represented at the tax sale and they were taxed on 17 buildable lots when, in fact, under the current Ordinance, it is one. Also, he said, because of the wetlands, the Army Corps of Engineers may not allow them to develop the lots; and finally under Article 66B, St. Clements Shores is an unapproved subdivision.

Mr. Joyner said the State Grant was to provide sewerage exclusively for failing septic systems within St. Clements Shores and for future growth there specified at 213 homes at 350 gallons per day; the area outside SCS was to have been served by a gravity system and St. Mary's County was to provide for future expansion at its own expense. He added it is his belief that allocation on the leftover EDU's from St. Clements Shores are not in accordance with the specifications of the Grant, as they were not intended for new development.

Mr. Joyner read a copy of a letter from Sally Wasserman, of the Office of the Attorney General, regarding recent changes to the Zoning Ordinance, i.e., changing the Parcel of Record Date from 3/15/78 to 8/1/90, and adding language to the Lot of Record Definition stating it to be "...a parcel of land legally subdivided and recorded in the Land Records of St. Mary's County." Ms. Wasserman's letter states she does not see how the changes are authorized under State enabling law and feels they will encourage further changes to the Parcel of Record date.

Mr. Joyner continued he doesn't see how the two recent subdivisions by the St. Clements Woods Partnership could have been done under the County's rules, as any future planning or approvals for sale of lots for homesites requires central sewage and subdivision plat approval by the Planning Commission under Article 66B per Ms. Wasserman's letter dated 10/22/91. Therefore, he said, St. Clements Woods is an illegal subdivision and they have an illegal deed and he believes the people in the public trust are violating that trust. For these reasons, he said, he is asking the Commissioners to reject these so-called lots and refund their money.

Commissioner Loffler pointed out the purpose of this public hearing is to consider a change of the Joyner's water/sewer category at their own request, and they are arguing against their own request. Mrs. Joyner replied she believes that is irrelevant, as they were sold a lot that is not even legal, and asked how they can request a category change for an illegal lot.

Mr. Grimm responded it is his belief that the Joyners' lots are properly recorded, as the subdivision was approved in 1926 before the State had any legislative requirements or the County even had a Planning Commission to approve plats. He said the lots are known as nonconforming lots under the County Zoning Ordinance and are governed by certain requirements relating to nonconformity. He added there has been no debate that he is aware of, until this time, that should they receive all appropriate agency approvals for a building permit that they could in fact build on those lots - that has never been a contention with him or any of OPZ staff that he knows of. Whether the Joyners have a legally recorded deed or not he said, he does not know.

Mrs. Joyner said they have a deed that gives no metes or bounds, it does not give any subdivision plat record, and the Liver and Folio on their deed is not even in the Land Records - the records don't even go up that high, and they had a call from their attorney this morning asking them to re-record their deed. She stated they wish to withdraw their request or have buildable lots, as the lots are illegal and, if they sold them, they could be fined.



Commissioner Loffler said that is not his interpretation of Ms. Wasserman's letter, and it is not relevant to the Joyners' case--these are lots which were recorded even prior to zoning in 1974. He said the situation is not uncommon throughout the country, much less St. Mary's County.

Commissioner Bailey stated there was no guarantee when the Joyners bought the property at the tax sale that they were buildable lots. He said lots are sold every year which would be buildable lots if you had sewer but if they can't get perc tests they're not buildable lots either.

Mrs. Joyner contended if you buy a lot in a subdivision, sewer is supposed to already be there, you're supposed to have that available, and that is basically what the documents they have says, that the Commissioners were supposed to provide it. She said as she understands the Grant it was for St. Clements Shores, and the Commissioners were supposed to build a gravity sewer for existing lots outside of that area at the County's expense.

Mr. Grimm responded that he was not involved in obtaining the Grant in the early 1980's, but offered the map for the St. Clements Woods--St. Clements Shores area, showing the boundary of the service area at the 1989 adoption of the Comprehensive Water and Sewer Plan. the Joyners' property is outside the boundary of the service area, he said, and the action OPZ has taken in processing this and similar requests relate to Resolution 84-22, which sets the policy for allocation procedures. the Resolution was adopted after public process, with review by the County Attorney, and if there is any discrepancy with the Grant Agreements he would have to ask the County Attorney to look into it, but he is not aware of any.

Commissioner Loffler stated he is not either, actually the lots were laid out when the sewer plan was approved and they were all calculated into the expansion, so clearly this property was outside of that service area. He added "lots" does not mean "buildable lots;" property can be bought and sold with nothing more than a physical land value to it, not a residential or commercial right.

Mrs. Joyner said what they are saying is the Commissioners were supposed to not sell the lots until they did what they were supposed to do to make them buildable, and under Resolution 84-22 the Commissioners were not supposed to give anybody any EDU's unless they had a plat of record. She said the plats were recorded in August 1989 and the EDU's were allocated before they had subdivision approval, so the Commissioners had violated their own Resolution. Furthermore, she said, the EDU's were supposed to stay in St. Clements Shores and if they did go outside of St. Clements Shores they were supposed to be only for failing systems, not for new development.

Commissioner Bailey pointed out the August 1989 plats were a re-subdivision of the property.

Commissioner Loffler threatened to stop the public hearing because Mrs. Joyner was getting off the subject and not allowing people to answer. He said she may have some things she needs to go to Court on, but from what he is hearing, a lot of what the Joyners are saying is a series of misinformation. He added if the Joyners do go through a Court process they should get some advice, because he thinks a lot of their information is really not very accurate.

Returning to the subject of the public hearing, Commissioner Loffler stated the Joyners need to speak for their sewer change, but they have been speaking against it, and asked if they have any relevant information in favor of the category change.



Mr. Joyner said he objects vehemently that OPZ has denied their request every time they meet--there is no listening process here, he said. Commissioner Loffler stated the Board of Commissioners is trying to listen to them, and will certainly take every bit of information that's relative to the change of category. Mrs. Joyner replied that is not even an issue, they can't even ask for the change because the EDU's were not even supposed to go into that area. Commissioner Bailey responded that's what Planning and Zoning has told the Joyners and that's what the Planning Commission has told them, that's why they recommended denial.

Mr. Joyner stated he feels in a justice system everything should be as fair and equal as possible, and the developers are allowed to build new houses when the system says you can't. Commissioner Loffler replied if the Commissioners chose to vote in the Joyners' favor, which they have the power to do, they could change all that, because there are exceptions to every rule and the facts are different in every case; that's why we have these hearings, he said, and what the Commissioners are looking for is justification for the category change so they can vote on it.

Commissioner Loffler opened the meeting to public comment.

Eve Palmer stated the one point the Joyners are trying to make is that EDU's were granted to new construction rather than failing septic systems, and she thinks that's an issue because the failing systems are polluting the Bay.

Commissioner Loffler said he assumes Mrs. Palmer is speaking against the request, but pointed out in many cases where grants are given there may be provisions whereby County government and private developers can share in the cost to fund expansions to provide more capacity and a better system, and he thinks further study will show that there was a lot of combining going on at that time to make the project feasible. Also, he reminded there are Boards and different levels of government, courts included, which have the power to grant exceptions based on evidence presented.

No further comments were offered, and Commissioner Loffler closed the hearing, asking whether it was the Commissioners' desire to make a decision today or wait for two weeks, as they could do either. As there were no comments from the rest of the Board, Commissioner Loffler stated a decision would be made in two weeks.

Mrs. Joyner asked if they don't get their money back for the lots if they could reapply when capacity is available. Commissioner Bailey pointed out the Planning Commission minutes specifically state that they can reapply after the sanitary study is completed, if allocations are available.

The hearing was closed.

#### **EXECUTIVE SESSION**

Commissioner Bailey moved, seconded by Commissioner Thompson, to meet in Executive Session to discuss a matter of Personnel (Consideration of appointments to Boards, Committees, and Commissions). Motion carried. The Session was held from 2:00 p.m. to 2:35 p.m.

#### **IMMACULATE CONCEPTION CHURCH**

Present: Rev. Paul Gozaloff, Pastor  
Torbin Agesen, Lorenzi, Dodds, Gunnill

As a follow up to last week's discussion relative to the location of the proposed new church five feet from the property line and the proximity of the church to the railroad right-of-way, the referenced individuals appeared before the Commissioners to present the site plan. Mr. Agesen reviewed the site plan pointing out the location of the proposed structure.



After discussion Commissioner Bailey moved, seconded by Commissioner Jarboe, to voice no objection to the church locating within five feet of the railroad right-of-way and to sign and forward the letter to the Zoning Board of Appeals expressing no objection. Motion carried.

7:00 P. M.

**PUBLIC HEARING  
CABLE FRANCHISE AGREEMENTS  
JONES INTERCABLE  
SIMMONS CABLE**

Present: Susan Sloan, Chairperson, Cable Advisory Committee  
 Harry Geiske, "  
 Ray Hanson "  
 Bill Hardman "  
 Nina Kern, General Manager, Jones Intercable  
 Dorothy "  
 Chris Fenger, Regional Manager, Simmons  
 Bruce Armstrong "  
 Phil Spindt "  
 Joseph Densford, County Attorney

The Commissioners conducted a public hearing to present for public comment franchise agreements for the two cable companies currently operating in St. Mary's County; Jones Intercable and Simmons Cable Television of St. Mary's County. The Agreements have been developed in conjunction with the Cable Ordinance adopted by the Commissioners October 1990 and have been recommended for public hearing by the St. Mary's County Cable Advisory Committee.

Ms. Sloan introduced the members of the Cable Advisory Committee and explained the Ordinance adopted by the Commissioners in 1990 which requires the implementation of franchise agreements for any cable company operating in the County.

Ms. Kern of Jones Intercable reviewed the Jones Agreement and Mr. Spindt reviewed the Simmons Cable Franchise Agreement

County Attorney Joseph Densford presented recommended changes to the Jones Franchise Agreement, some of which had already been incorporated into the document. Ms. Kern of Jones Intercable indicated no problem with the suggested amendments. A copy of the recommended amendments is on file in the Commissioners' office.

During discussion Commissioner Thompson requested explanation of "arbitratable matters" contained in the Jones Agreement. Ms. Kern stated that it was probably standard language and would look into this. She further pointed out that the Jones Agreement refers to removal of equipment, but Simmons does not. Mr. Fenger agreed to include it in the Simmons Agreement.

Commissioner Bailey indicated that Simmons has a requirement for a 24-hour telephone line for government officials, but Jones does not and suggested that it be included. He further suggested that the agreements include hookup for non-public schools as well as public schools. Both cable companies agreed.

The hearing was opened for input from the public:

**Joseph H. Goddard** - Questioned the workmanship of the cable line installation at his apartments and suggested that the County have an inspection process.



**Bud Gibson** - (1) Questioned what benefits the County receives by enacting franchise agreements. Commissioner Loffler responded that each cable company is required to pay a 5% franchise fee and further that the County will have a document providing some controls over the operation of the cable companies in St. Mary's County. (2) Questioned the lifetime of the contract and whether the companies would be in direct competition. Commissioner Loffler indicated that the franchise terms are for ten years for each company, and that they were not in direct competition at this time because of the rural nature of the county.

**Charles Boyden** - Indicated it was difficult to reach Simmons by telephone--line often busy, and the fact that if there is a problem with cable late Fridays and weekends, it is not serviced until Monday.

**David Woodburn** (First District) - Questioned unavailability of cable service in certain areas and the 30 dwelling per cable mile requirement. Simmons Cable has been unresponsive to his requests for cable service. Commissioner Loffler explained that through enactment of the franchise agreement, the County will have tighter controls in this area.

**Christine Painter** (Freedom Landing) - Requested that the cable companies provide equipment and facilities to allow programs such as Freedom Landing to broadcast programs that are educational and community oriented.

**Jack Witten** (representing Potomac River Association) - Questioned whether it was a franchise renewal or an initial franchise agreement. He requested that it be an initial agreement because of the requirements called for in a new franchise. County Attorney Densford advised that the Committee had agreed that they would be renewal agreements because the two cable companies had already been operating in the County. He further suggested that definitions be added for "cable line" and "density of dwelling"

**Jack Witten** (representing League of Women Voters) - Stated that LWV has provided 200 hours of programing (Commissioners' meetings and other county events) which has been provided to Jones for broadcasting. He advised that these programs would be a value to the 42000 residents who do not have this service and indicated that the intent of the goals of providing public access have not been achieved. Ms. Kern stated that Jones has a studio in Prince Frederick for this purpose. Mr. Spindt advised that Simmons does not currently meet the public access requirement in the franchise agreement; however, Simmons will be providing two access channels when it is enacted. In conclusion Mr. Witten requested that the record of the hearing be kept open for 15 days. Commissioner Loffler responded that it is the practice of the Commissioners to keep it open for 10 days.

At the conclusion of the public input portion of the hearing, Commissioner Thompson indicated that some good points had been made. She stated that since they are ten year agreements and changes can only be made with the agreement of the cable companies, she wanted the Commissioners to make sure that the documents when approved are in the best interest of St. Mary's County. She suggested that the quality of workmanship and safety factors be revisited by the Cable Committee. She further pointed out that there are some things common in each document and some things different and that the Committee should do a comparison of both documents to make sure there is identical enforcement provisions.

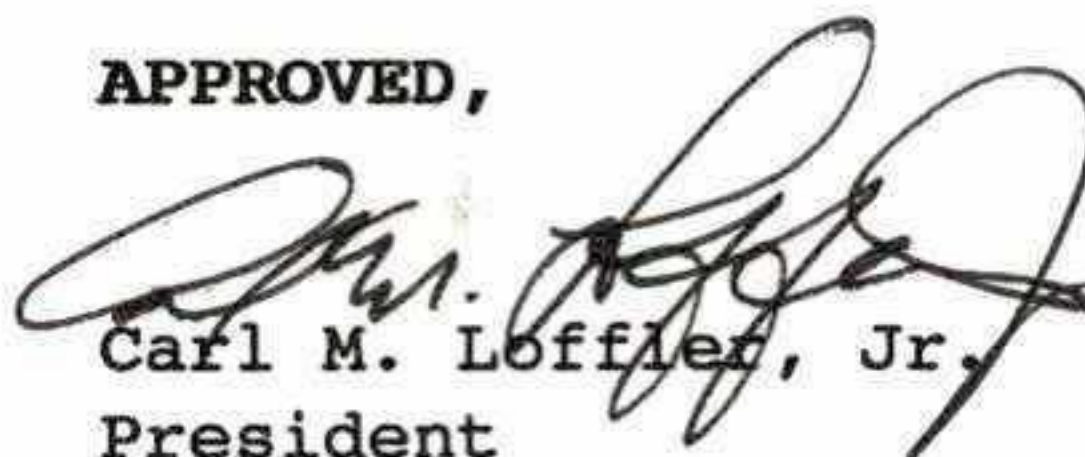


During discussion of public access and availability of equipment, Ms. Kern noted that Jones does provide this service, but requires users to under training. Mr. Fenger of Simmons stated that it is very expensive to do this and he has not gotten a sense of wide interest in doing this. He pointed out that Channel 10 on Simmons Cable would allow people to bring programming to them for airing. Mr. Fenger stated that until there is more interest demonstrated, there was no justification for a full channel.

**ADJOURNMENT**

The meeting adjourned at 8:40 p.m.

**APPROVED,**



Carl M. Loffler, Jr.  
President



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