

**DRAFT MINUTES  
CHAPTER 113 - TASK FORCE**

**COMMISSIONERS of ST. MARY'S COUNTY &  
ST. MARY'S COUNTY METROPOLITAN COMMISSION**

**JULY 19, 2017**

The meeting of the Chapter 113 Task Force Meeting was called to order at 4 p.m. Those in attendance are shown on the attached sign-in sheet. Also in attendance were Jason Babcock, *Enterprise* reporter and Roma Mauro, a member of the public.

**OPENING**

The attendance sheet and Draft July 12, 2017 Meeting Minutes were circulated among the group. The group was reminded of the Task Force goals with the ultimate objective to arrive at a consensus on proposed amendments to Chapter 113. The Task Force is still on schedule to submit/present a final report and presentation to the CSMC and MetCom Board by November, 2017. Recommendations by the Task Force may be utilized as part of the legislative proposal to the Delegation in preparation of the 2018 Legislative Session. It is anticipated that there be accompanying letters of support from the Health Department, LUGM, CSMC, MetCom and possibly the Sheriff (if enforcement provisions are recommended to be amended).

Mr. Erichsen reminded everyone that the Boland Report, future meeting schedule and an EDU Table were distributed by email to the group last week, as requested.

As a follow up to the prior discussion of Chapter 113-10A(3), concerning mandatory connections, the group was directed to current language in several local ordinances and plans which are included in the tabbed reference material binders. For example, under the Comprehensive Water and Sewerage Plan, p. 1-3, item g reads: *“Provide central sewage collections systems in the development districts. As collection systems are extended into service areas, require connection of all structures with plumbing on property within the service area, which are located 200 feet or less from any connection line.”*

This particular plan, while not law, articulates the intention of public water and sewer service in the County. Likewise, it would seem that connections would be required in the Development Districts. Referring to page 1-4 (a)i, as it relates to water systems the text reads: *“Provide central water supply systems in the Development Districts and Town Centers. As supply systems are extended in these growth areas, require connection of all structures with plumbing on property within the service area, which are located 200 feet or less from any distribution line.”* Next, referring to the Subdivision Ordinance, page 30-8(a) which states: *“Information shall be provided in sufficient detail in engineering study including on-site and off-site system adequacy as well as the method of water supply and capacity required.”*

In the County Subdivision Regulations, it was pointed out that on page 30-8, item f 30.6.4(f)(a)i, specifically states: *“All residential subdivisions of 25 lots or more must connect to a public water system. All non-residential subdivisions and development in the Development Districts must connect to a public water system if it is within 1,750 feet of an existing line of sufficient capacity. All development in Town Centers and Village Centers within 1,750 feet of an existing public water system with sufficient capacity must connect to the public water system.”*

Clearly this is conflicting as one ordinance speaks to a connection at 200 feet and a regulation which states 1,750 feet.

The County Zoning Ordinance, page 70-8, Section 20.8.1 states in part: *“...New development requiring subdivision or site plan approval within an area designated for service under the Comprehensive Water and Sewerage Plan (i.e., within an S-1, S-3D or S-6D service area) shall be required to connect to the public community sewerage service.”*

However, immediately below the ordinance, there is a provision for waivers on a case by case basis; similarly for water in Section 70.9.1, development must be served by a public water system of sufficient capacity but the opportunity exists for waivers/deferrals.

These examples, while somewhat inconsistent, illustrate that these ordinances and regulations seem to indicate that connections should be mandatory. The governing authority for mandatory connections is in Chapter 113 and as was discussed during the initial Task Force meeting; however, Chapter 113-10B allows connections outside the designated service area to be at the property owner's option. It was agreed that the definition of “service area”, needs to be improved. Phrases such as “service area”, “service district”, “area to be served” and “designated service area” are throughout various documents. This Task Force should provide a recommendation to address the terminology utilized in Chapter 113 for consistency.

The Task Force consensus is that while current language predominately focuses on required connections, that any recommendations for mandatory connections would not be received favorably. Currently, MetCom does not have the ability to offer any incentives, payment plans or capital financing alternatives to individuals or groups of property owners that may wish to connect to public water and sewer.

Next the group quickly reviewed maps from the Comprehensive Water and Sewerage Plans. These maps identify service areas for water/sewer as well as no-planned service areas. It was apparent that the No-Planned Service area covers a significantly large geographical area of the County, much larger than planned served areas. The group recognized these large areas of the County remain unserved and are not part of the County plan for water or sewer service. Mr. Erichsen briefly described the joint GIS effort between the County and MetCom.

Mr. Erichsen then referred the group to the materials provided for today's meeting including: Chapter 113 Draft Language, Financing Connections (materials from multiple jurisdictions including Howard County, Maryland, the City of Portland, Oregon and Kent Island, Queen Anne's County, Maryland), Sample Charges & Fees (including the Town of Leonardtown, and Charles and Garrett Counties, Maryland); and Capital Contribution Charges Scenarios.

There followed short discussion regarding the term "*other forms of indebtedness*" in section 113-6 as well as the definition of bonds. The group was informed that bonds may come in the form of grant money or loans from the state. They are one in the same. At some point in time, the term "*other forms of indebtedness*" was stricken for unknown reasons.

Group consensus was that adding "other forms of indebtedness" back into the text may provide MetCom the flexibility it needs to initiate other financing mechanisms to include lines of credit. Mr. Erichsen referred to Section 113-9, which at some point in time had been repealed and suggested the Task Force could insert a section entitled *Water and Sewer Connection Financing*. Various financing alternatives could be described in this section. The ability and flexibility to extend financing options and possibly create special benefit assessment charges for property owners who wish to connect to public water and/or sewer could be included a new Section 113-9. Any financing options should remain subject to the full faith and authority of the County. There was consensus that the oversight from the County is beneficial. Alternatively, it was discussed that it can be more beneficial to recommend that the term "bond" be replaced with the word "debt" throughout this Section.

In today's reference materials (Financing Connections) examples were provided for several types and methods of financing extended in other jurisdictions. It was discussed and agreed that the amendments to Chapter 113 most likely only need to provide the authority and flexibility of offering various financing options, not outline the specific implementation.

Brief discussion ensued concerning debt limits, County authority and oversight and the benefit of access to other forms of borrowing. Ms. Cudmore requested that the Davenport Debt Policy Study be sent out to the membership. Mr. Erichsen advised that it was available on the MetCom website and would be sent to the members.

Alternative language for various forms of debt could be proposed and incorporated as 113-6(c): *"The Commission shall be authorized and empowered to enter into loan and grant agreements, issue revenue bonds, establish lines of credit, and pursue other alternative forms of financing, subject to debt limitations as established by Section 27-11(A) of the Code of St. Mary's County, Maryland.*

The group discussed possible language for the previously repealed Section 113-9. Mr. Erichsen recommended that this section could be used to help provide flexibility for

MetCom to offer various types of voluntary programs, financing mechanisms and connection incentives for public water and sewer connections. Proposed language could read as follows:

**Section 113-9. Water and Sewer Connection Financing**

- A. *For the purpose of the public health, safety and welfare of the residents, the Commission may, at its discretion, offer connection incentive programs and other financing mechanisms (ie. revolving loan funds) to assist property owners with all or a portion of the costs of connecting to available public sewer and water systems within planned service areas as designated and defined by the Comprehensive Water and Sewerage Plan for St. Mary's County.*
- B. *For extensions of water and sewerage systems, the Commission may, upon a voluntary petition from a super majority of residents to be benefitted by a specific extension, approve special benefit assessment charges, special taxing districts and service extension fees for the repayment of costs associated with the design, permitting, land acquisition and/or construction of such extension in any of the sanitary districts, subject to the approval of the County Commissioners of St. Mary's County.*
- C. *Any financing programs, incentives, or mechanisms shall be subject to the availability of funds and to Financial Eligibility Criteria, as established and approved by the Commission.*

Discussion then moved to Section 113-10 - Connections Required, Section A(3) which currently states that owners shall connect if a line abuts their property. Striking certain language as follows would allow the connection charges to be calculated and assessed in other ways (i.e., by meter size) and mirror what has currently been the operational County practice: *“When any water main or sewer is declared by the Commission complete and ready for the delivery of water or the reception of sewage, every abutting property owner for whom a water or sewer connection has been provided, ~~after due notice, may shall~~ make application for a connection of all spigots or hydrants, toilets and waste drains with the water main or sewer ~~within the time prescribed by the Commission.~~”*

A brief discussion of sewer categories, state regulations and various connection policies followed. The group was reminded that with respect to Chapter 113-10B, MetCom does not make the determination on “failure” for private systems. It should be noted and

clarified that that the applicable State agency, which could be the Health Department in some cases, determines failures and exemptions.

Discussion transitioned to the timing of connections. It was acknowledged that much like the conflict surrounding proximity to an existing line, there is differing language concerning the timing of mandatory connections. The 2016 MFSG Report (distributed at the initial meeting), recommended two years, the 2010 Task Force recommended 5 years, the 2014 Connection Policy Study Group said 10 years and another source identifies connection should happen at the time of sale. With respect to the required timing of mandatory connections, Mr. Erichsen suggested 6 years as a reasonable time frame as it is within the planning horizon and vision of the approved Capital Improvement Plan

The group moved to a discussion on connection charges. Currently, MetCom assesses capital contribution charges on a per EDU basis. There are many other ways to assess these charges as illustrated in the various reference materials distributed. Members were encouraged to review these sources as well as perform research on any other methodologies. One of the most common ways to assess connection charges is by meter size; meter size is based on flow and flow is tied into EDUs. Removing the “*assessed on a per EDU basis*” could provide the ability and flexibility to perform different methods for calculating these charges which could prove beneficial to both MetCom and its customers. Likewise, the capital contributions could be eliminated partially or completely and costs recouped through system improvement charges, but Chapter 113 does not provide this flexibility.

The group was then directed to the *Capital Contribution Charges – Scenarios* document provided in today’s reference materials. These spreadsheets provide various scenarios for assessing capital contribution charges and the potential impact on reserves should flexibility be incorporated into the Code. Currently, Chapter 113 contains no flexibility for such calculations and MetCom is held to one formula for the calculation of the capital contribution charges. Delegate Clark advised in the initial meeting that it would be important to include the option of installment payments and to avoid allowing a pre-payment to extend in perpetuity. Discussion of pre-payment, installment payments and possibly requiring a partial upfront payment ensued. The attention of the group was then directed to the current language with amended language supplied:

***Section 113-12. Connection Charges(3)(A)*** *The Capital Contribution Charge shall be ~~assessed on a per EDU basis and shall be a uniform charge~~ assessed equally to properties of similar classification throughout all sanitary districts. There shall be a*

*uniform rate applicable to residential properties and a uniform rate applicable to commercial properties. The Commission may create additional uniform rates for other property classifications that the Commission considers necessary and appropriate.*

- (B) The Commission may revise the Capital Contribution Charge annually.*
- (C) The Capital Contribution Charge shall be due and payable in full to the Commission at the time a property owner makes an application or otherwise is required to connect to a water main or sewer, but shall occur no later than the issuance of a Use & Occupancy Permit. **Option: require 50% payment at time of application. ....or at the time of settlement if the property is sold, whichever comes first***
- (D) If the applicant has not made connection to a water main or sewer within six (6) years of the date of application, but has paid all or a portion of the capital contribution, the applicant shall remit an amount equal to the difference between what has been paid and the capital contribution charges in effect at the time, subject to the provisions in Section 113-12 ( C ).*

The group acknowledged that suggesting new language regarding financing in Section 113-9 and the connection required language in Section 113-10 should be adopted together in the recommendations to the respective boards. Members acknowledge again that the Task Force effort is not a complete re-write of Chapter 113 but rather a targeted set of recommendations that are in sync with what the respective Boards and Delegation would find as acceptable and beneficial code amendments. It was further agreed that attorneys Beaver and Sparling will work together on finalizing the suggested language for inclusion in the Task Force's formal amendment matrix.

The group then briefly reviewed some housekeeping items concerning other possible Chapter 113 amendments. For instance, incorporating the most recently passed legislation as well as a review of some language which was not successful in the prior legislative session. One such item is the provision that MetCom may offer contracts for some employees; Director and Assistant Director were omitted from the recently passed legislation, this should be addressed.

Looking forward to topics for the next meeting, the group referred to Section 113-16(C) – Unfit Systems. Currently, as stated, this portion of the Code dictates that MetCom determines which private systems are unfit. This is clearly the role of the State and should be addressed. The majority of the text is also outdated. MetCom lacks the

operational and financial resources and the ability to finance any such takeovers as currently stated in this section.

Additionally, the section of Chapter 113-8 dealing with procurement is outdated. The group should review this section and make a determination if they wish to discuss recommendations for amendments of that section. The section concerning Section 113-26 - Reimbursable Work and Section 113-22 - Church Property, could also be reviewed by the Task Force. Additions, deletions and/or additional revisions to previously discussed sections may also be appropriate as the general counsel of both Boards complete their reviews.

The members were reminded that an early or interim report to the respective Boards as well as perhaps the Delegation might be helpful in advancing the recommendations.

Mr. Carey then acknowledged a member of the public who was present for the meeting. Ms. Roma Mauro of Nancy Lane, Great Mills, Maryland had several questions for the group surrounding how Metcom operates, its relationship to the County government and how service areas are determined. She believes that several properties in her immediate area are, or will soon be experiencing septic system failures. Ms. Mauro stated that she is proactively gathering the appropriate information about how to approach this potential issue. Mr. Erichsen provided Ms. Mauro with a brief outline as to the various County departments, MetCom and the Health Department roles concerning public water/sewer connections. She was also advised to follow up with Mr. Bill Hunt, Land Use and Growth Management Director, following the meeting. Ms. Mauro responded that she has already had meetings with LUGM and the Health Department and she acknowledged they are helping answer the many questions about how to move forward to address her concerns. She also advised that she had not approached her neighbors yet as she was still gathering information at this time.

The discussion briefly touched again on EDU numbers and Mr. Erichsen stated that MetCom has approximately 270 water customers and 432 sewer customers that have an EDU allocated, but are not connect to existing water and sewer. MetCom believes that the majority of these properties may not be developed. To further break down the numbers, there are 207 sewer only, 45 water only and 225 water/sewer customers. Mr. Erichsen advised that a joint GIS effort is on-going to try to determine how many developed properties abut public water or sewer systems with EDUs assigned that are not connected. This information would be an indicator of a possible future customer base should mandatory connections be imposed.

Following further discussion and offering guidance to Ms. Mauro, the meeting was adjourned at approximately 6:20 p.m.

  
Kelly C. Jarboe,  
Recording Secretary

**Metropolitan Commission**

John J. Carey, Chair  
 Bryan Barthelme, Vice-Chair  
 Alice Gaskin, Member  
 Mike Mummaugh, Member  
 Robert Russell, Member  
 George Thompson, Member  
 Steve Willing, Member

**Commissioners of St. Mary's County**

James R. Guy, President  
 Michael L. Hewitt, Commissioner  
 Tom Jarboe, Commissioner  
 Todd B. Morgan, Commissioner  
 John E. O'Connor, Commissioner

**July 19, 2017****Attendance Sheet - Chapter 113 Task Force**

<b>Name of Entity</b>	<b>Representative</b>	<b>Designee(s)</b>	<b>Check Here</b>
Citizen(s)	Community members	Joseph (Russ) Russell Co-Chairman	✓
Citizen(s)	Community members	John Walters	<i>excused</i>
MetCom Board	Board Member	Michael Mummaugh	✓
MetCom Board	Board Member	John Carey	✓ <i>MC</i>
CSMC	Commissioner	Tom Jarboe	<i>excused</i>
CSMC	Commissioner	James R. (Randy) Guy	✓
Health Department	Dr. Brewster, Health Officer	Daryl Calvano	✓
SMC Delegation	Chairman Deb Rey Representative	<del>Delegate Jerry Clark</del> <i>(Melinda Shenko)</i>	✓
MetCom Staff	Executive Director	George Erichsen Co-Chairman	✓
MetCom Staff	CFO	Becky Shick	✓
MetCom Staff	MetCom Attorney	Christopher Beaver	✓
County Staff	CFO	Jeannett Cudmore	✓
County Staff	County Attorney	George Sparling	✓
County Staff	LUGM Director	Bill Hunt	✓