

**MINUTES  
CHAPTER 113 - TASK FORCE**

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

**AUGUST 16, 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.

**OPENING**

The attendance sheet and Draft August 2, 2017 Meeting Minutes were circulated among the group. A brief review of the Draft Minutes resulted in the following minor amendments: On page 1, a clarification will be added indicating that the Health Department is prepared to offer their letter of support to the recommended amendments, *"subject to the Health Officer's concurrence."* On Page 3, the text in **Section 113-12.C.(3)** will be expanded to include the agreed upon language in the proposed Amendment Matrix. In particular, it was agreed to add *"at which time an amount equal to the difference of the amount which the property owner has paid toward the capital contribution charges and the capital contribution charge rate in effect at the time of connection"* at the end of the last sentence in the paragraph. On Page 5, **Section 113-8**, regarding various forms of advertising, it was agreed that the minutes should reflect the group's concurrence that the words *"other forms of media (i.e. electronic)"* be added to the minutes. Mr. Erichsen noted that as agreed to at the prior meeting, that the Amendment Matrix had been forwarded to all the Task Force members for comment via email and there were no responses from those unable to attend this week's meeting due to their attendance at MACO. Melinda Sheranko, in attendance for Delegate Clark, noted that he had no additional comments to add this week. Ms. Sheranko also noted that the draft Transmittal Letters to the respective Boards should ensure that all names and titles are in a consistent format.

Mr. Erichsen then reviewed the draft meeting and presentation schedule discussed at the last meeting. August 16 and September 6 are intended for review of the updated Amendments Matrix, with additional notations added under the Rationale column to reflect discussion by the Task Force to date. Mr. Erichsen advised that on August 10, an update was presented to the MetCom Board and that each MetCom Board meeting has a specific agenda item for the Board members present on the Task Force to update the balance of the Board. It is proposed that all Task Force members sign the Transmittal Letter which will be forwarded to each Board along with the Amendment Matrix recommendations. Mr. Sparling remarked that he would prefer not to sign the Transmittal Letter and is not sure if it is appropriate for him to sign as a Task Force

Member. He stated he would prefer to sign only as to the legal sufficiency, which the members had no objection to as long as both attorneys were reviewing the proposed language.

It was suggested that the Co-Chairs be the lead presenters to the respective Boards, with Mr. Erichsen presenting to the MetCom Board and Mr. Russell presenting to the Commissioners of St. Mary's County. It is hoped that as much membership of the Task Force will be able to attend each presentation and offer input as well. Mr. Erichsen noted that there is a Joint Meeting between MetCom and the Commissioners tentatively scheduled for November 7 and that it may be possible that the Task Force could make a joint presentation at that time. With both Boards present, it may be an opportunity to obtain joint concurrence for submission of the corresponding legislative language to the delegation.

The group then moved to review the Amendment Matrix, an update of which was provided for this meeting. Extensive discussion took place concerning the many editorial changes which could be made to Chapter 113, however there is agreement that such changes are not the focus of this Task Group as the goal is not a complete re-write of the Code at this time.

A discussion followed concerning **Section 113-6A – Bonds Debt; authorized, restriction, issue** and it was agreed that in order to allow MetCom to make payments more frequent than semiannually, that language would be added to reflect that payments be made no less than semiannually. It was also noted that outright grants are not debt and that the text in the rationale column be revised accordingly. In **Section 6B**, "*by the Commission*" was added regarding profit and its tax exemption from the State.

With respect to **Section 113-7.A – Debt; levy of taxes; penalty** - questions arose concerning the wording specific to "*banks in the County*" and if that wording could be removed and replaced with language that would allow the use of any bank(s) or other financial institutions in order to get the best rates for its customers. It was agreed that the text would also include that these institutions be insured. Although slightly outside of the initial discussions, the Task Force members agreed that this would be a good recommendation to suggest in the Code amendments. There was an extensive discussion concerning timing, budget cycles and notifications with respect to tax levies and the necessary involvement of the County. It was recommended that the language regarding a 60 day time frame for certification to the Commissioners of St. Mary's County, as suggested by the prior 2014 Connection Policy Study Group not be incorporated as it should be whenever the County requires. The group concurred that any alternative timing recommendations from the County CFO, Jeannett Cudmore, could be incorporated, if needed.

The group then discussed **Section 113-9 Water and Sewer Connection Financing** and questioned what the definition of “*developed*” was. The group discussed whether connection incentive programs should be offered to individual homeowners, developers, principal or secondary residences, single family or multi-family dwellings. It was recommended that the property be “*existing residential properties currently served by septic and/or well systems*”. This language should clarify who the programs would be offered to and eliminate the need to use the word *developed* which has been a historically problematic term with respect to definition. The group consensus is that that the intention is not to incentivize connections for developers but rather for individual homeowners.

Mr. Sparling had concerns regarding the use of phrases such as “*special taxing district*” and “*special benefit assessment*” in **Section 113-9**. It was agreed that Mr. Sparling and Mr. Beaver will work on the wording necessary to best express the concepts the group has agreed upon.

Extensive discussion of **Section 113-9.C**, with respect to the actual benefit assessment process (i.e. petitions, mandatory participation, and payment, etc.) then took place with a focus on defining those who have the standing and ability to enter into such petitions; (i.e., those with fee simple interests in property and lienholders, etc.).

Ms. Shick expressed a preference to use the County Treasurer to place these special charges on property tax bills and enforcement of any non-payment. Some concern was raised that if MetCom were to charge special fees that there could be a return to past practices where different charges/rates were applied throughout the various Sanitary and Water Service Districts. Mr. Erichsen reminded the group that the goal is to implement a program, whether administered by the County or MetCom, which would provide citizens with the ability to petition for MetCom public water and sewer service. Further discussion ensued concerning the petition process and whether the petition should be from 100% of the properties participating in the project or if this provision should follow the County’s 2/3 petition used for special taxing districts. Concern is that this could create possible inequities and complications arising out of properties being required to pay special assessment charges for service they did not want. It was suggested that the following draft language be considered and would be revisited at the next meeting:

*In order for special benefit assessment charges to be applied: (1) there must first be a voluntary petition from 2/3 of the property owners requesting improvements; (2) An estimate of the costs of improvements proposed to be constructed, the property owners affected, and all material terms of the respective annual benefit assessments proposed to be levied to pay the cost of the improvements, or any reasonable portion of them, as determined by the Commission; (3) A confirming petition from 100% of the property owners requesting the improvements*

Discussion then moved to **Section 113-10.B**. The group concurred that it would be appropriate to strike text which references prior repealed Section 113-9 as it is not applicable. The group then briefly discussed **Section 113-16 Other Systems; acquisition; general**. Currently, the Code states that MetCom determines if private systems are unfit and that if declared unfit, MetCom is responsible for the upgrade, expansion and costs associated with replacing the system. The Task Force, as well as the delegation is in agreement that privately owned systems are primarily the responsibility of the owners of those systems. MetCom does not determine the fitness of a private system and the Health Department is not the only authority who can make a fitness determination. The draft language in **113-16(1)** states that owners are responsible for rehabilitation of a failing system and for bringing it up to current standards. **113-16(2)** references situations where owners of private facilities may want MetCom to take ownership or assume maintenance or operational aspects of the facility (*i.e.* “controlling authority”). Mr. Calvano advised that it would be wise to compare the language in this Section against the Annotated Code. It was agreed that the reference to Section 9-1110 of the Maryland Environmental Code would be referenced as it defines the extent of “controlling authority”. This was followed by extensive conversation about who would be responsible for actual work and the expenses incurred to bring any private system up to current standards in order to be considered fit and acceptable for ownership. It is understood that this remains the private owner’s responsibility.

The group then discussed **Section 113-30.B Additional Requirements of Commission**. The group consensus is to recommend a streamlined process to assist the Commissioners of St. Mary’s County in their annual update of the Comprehensive Water and Sewerage Plan. The following proposed language was found to be acceptable:

*“Upon adoption by the Commission, the 5 year Capital Improvement Plan shall be deemed approved by the Commissioners of St. Mary’s County and incorporated into the St. Mary’s County Comprehensive Water & Sewerage Plan. The incorporation shall constitute an amendment of the St. Mary’s County Comprehensive Water and Sewerage Plan by operation of law and shall be submitted to the Maryland Department of the Environment. Section 9-503 of the Environmental Article of the Annotated Code shall not apply to the amendment by incorporation.”*

Mr. Erichsen then directed attention to the various scenarios discussed at the prior July 12, 2017 meeting regarding Capital Contribution and System Improvement Charges. It was determined that flexibility is needed on how these charges are computed. One scenario showed the impacts of zeroing out capital contribution charges assessed from approximately 150 new customers and recouping those revenues through System Improvement Charges, thereby spreading those costs among the much larger 17,000

customer base. **Section 113-29.H System Improvement Charges** was briefly discussed. Although there is a good fiscal argument to spread the costs, the prior 2005 Boland Study recommendations to implement this were not approved as it was felt that existing customers should not be held responsible for recovering the costs of service area expansions for new capacity that they would not directly benefit from. Draft language will be discussed as the last review item at the next meeting.

The meeting was adjourned at approximately 6:50 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

**August 16, 2017**

**Attendance Sheet - Chapter 113 Task Force**

<i>Name of Entity</i>	<i>Representative</i>	<i>Designee(s)</i>	<i>Check Here</i>
Citizen(s)	Community members	Joseph "Russ" Russell	<i>JR</i>
Citizen(s)	Community members	John Walters	<i>John</i>
MetCom Board	Board Member	Michael Mummaugh	<i>Mummaugh</i>
MetCom Board	Board Member	John Carey	
CSMC	Commissioner	Tom Jarboe	
CSMC	Commissioner	<i>James (Randy) Guy</i> Mike Hewitt	
Health Department	Dr. Brewster, Health Officer	Daryl Calvano	<i>DC</i>
SMC Delegation	Chairman Deb Rey Representative	Delegate Jerry Clark	<i>Melinda Shrivankov</i> <i>for JC</i>
MetCom Staff	Executive Director	George Erichsen	<i>AAE</i>
MetCom Staff	CFO	Becky Shick	<i>RS</i>
MetCom Staff	MetCom Attorney	Christopher Beaver	<i>CB</i>
County Staff	CFO	Jeannett Cudmore	
County Staff	County Attorney	George Sparling	<i>GS</i>
County Staff	LUGM Director	Bill Hunt	<i>✓</i>