

**MINUTES
CHAPTER 113 - TASK FORCE**

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

SEPTEMBER 6, 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 16, 2017 Meeting Minutes were circulated among the group. A brief review of the Draft Minutes ensued; Mr. Carey noted one typographical error which will be corrected.

Mr. Erichsen stated that the text changes discussed in these meeting minutes are reflected on the Code Section Amendment Matrix in gray. For the sake of consistency, new material is highlighted in yellow; anything changed between meetings is highlighted in gray. Following acceptance of proposed language by the group, the language is added to the matrix

Mr. Erichsen then reviewed the draft meeting and presentation schedule previously discussed. The purpose of today's meeting is to review the proposed language to date. On September 14, an interim presentation of the matrix will be made to the MetCom Board. The attorneys will continue to fine tune the language to ensure that it meets legal sufficiency. The next regularly scheduled meeting is September 20. Mr. Erichsen believes that after this meeting, Dr. Brewster will be prepared to offer her letter of endorsement directly referencing the matrix and the language therein. The draft Transmittal Letters were again briefly reviewed and the group was reminded that these are intended to serve as an endorsement by the group of the language proposed in the matrix. Delegate Clark reminded the group that the attorneys will also need to have the language prepared to go forward in the appropriate bill format for the delegation. This should also be provided on-line for the public prior to the early December meeting. Currently, there is a tentative schedule for a November 7 joint meeting between the Commissioners of St. Mary's County (CSMC) and the MetCom Board. This would be an ideal time for the Task Force to give a joint presentation and would be one month prior to the December 5 CSMC meeting with the southern Maryland Delegation.

The group then turned to the Code Amendment Matrix. In the left column, Mr. Erichsen has provided page numbers for the original code section. Yellow highlighted language is all that was discussed and agreed upon in the August 16 meeting; gray with blue text highlighted language are the discussion items from the August 16 meeting. Reviewing the Matrix, Mr. Erichsen noted that during the August 16 meeting, corrections necessary for errors and clarification were made.

Mr. Erichsen began a review of some of the changes and discussion of the matrix as a result of the August 16 meeting. With respect to **Section 113-7.A** and the timing of debt authorization from the County, it has been recommended that the time frame be removed. When the County needs the information it will be provided; Ms. Cudmore concurred. Banks and other financial institutions were discussed on August 16 as well as allowing MetCom the ability to secure the best rates for customers. In addition, these institutions must be insured. Proposed language in this section states that all properties in the county may be taxed for the payment of principal and interest on outstanding bonds. The group agreed that this language should be amended to clarify that just those properties within a sanitary district in which public facilities are located could be taxed. Mr. Sparling expressed concerns about a state constitutional requirement addressing uniform tax rates. He feels uncertain that the CSMC actually have authority to levy taxes in sanitary districts. Mr. Beaver and Mr. Sparling agreed that they should evaluate the legal sufficiency of the language surrounding levy of tax by the CSMC. Concern was expressed about the limitations and equity as the language is currently written. Extensive discussion ensued concerning consistency between sections of the Code concerning this issue, legal authority to issue tax on some or all residents and legal authority on the issue. Following discussion, the group concurred that the proposed language should be stricken and that the current language should be removed as well so that this section reads: *“in each year in which any debt is outstanding and unpaid, the Commissioners of St. Mary’s County shall levy and collect a tax upon all property sufficient to provide for the payment of the principal and interest on all such outstanding debt, when they become due and payable.”*

Discussion transitioned to **Section 113-9.C and D** concerning petitioning by property owners and percentages required for confirming petitions. A long discussion followed various concerns surrounding the implications and responsibilities with respect to those who may wish to join in a petition and those who do not. Questions and concerns also arose concerning the possibility that developers could come in behind private citizens and develop an area now connected through the efforts and payments via citizen petition. Delegate Clark suggested that perhaps the details and processes would be better identified and defined in policy rather than to be codified. Mr. Erichsen stated that the process would need to be clearly identified so as to answer questions and concerns regarding this ability. The group concurred that the proposed language for the code should be simplified and provide the ability for citizens to petition for services. Section D should be eliminated and the details concerning petitioning will be addressed in internal MetCom policy and procedure. The group agreed that there could be public perception issues with assisting developers in a similar way and that a focus of this Task Force group has been to get existing properties connected.

For purposes of discussion, regarding **Section 113-9.B** the phrase *“to existing residential properties”* will be added to clarify the intention behind the alterations. With

respect to **Section 113-16.C** and the lengthy discussions in past meetings regarding unfit systems, the statement *“in accordance with Section 9-1110 of the Maryland Environmental Code”* will be inserted as a cross reference and to further identify the controlling authority piece of the section.

The group was then referred to the handout entitled *“Chapter 113 – Task Force Topics – Draft 9-6-2017”*. Page 2 of this document provides a synopsis of various scenarios surrounding recalculation/redistribution of the Capital Connection Charges imposed on any new connections and recouping the costs through a much larger customer base via System Improvement charges. Currently, MetCom lacks the ability to control rates because the Code dictates how rates must be calculated. It could be better for MetCom and its customers to have the ability to control its rates and apply them in the manner it believes is best. In addition, the Code currently prevents planning of the Capital Improvement Budget (CIB) beyond 6 years. It would be far more beneficial for the CIB to be extended to 10 or 12 years for better capital planning and the setting of accurate rates. An extended discussion ensued regarding the various scenarios which determine facilities planning as well as customer rates. The group concurrence was that the current 6 year window for capital planning is too minimal and should be extended. Delegate Clark pointed out that again public perceptions surrounding Capital Contribution Charge calculations can be problematic should people get the impression they are underwriting developers or that current customers are burdened with payments for system expansion. The concurrence is that these are difficult concepts to explain and that the Capital Contribution Charge needs to be more reasonable and predictable. There was further concurrence that there will be resistance to the word *“expansion”*.

Mr. Erichsen noted that the topic of mandatory connections will certainly come up as part of these discussions, however with various state mandates rapidly approaching (WIP and the MS4 Permit), the County may need to strongly advocate for mandatory connections and push MetCom to have more septic systems connected to public systems. Mr. Calvano stated that septic systems are one of the major components of the WIP program. These are county permits and county programs and MetCom will not be the authority to mandate connections. The group recognized that the state permitting will drive these changes. For these reasons, the group concurred that it is not necessary to include the word *mandatory*.

The group then evaluated **Section 113-29.L System Improvement Charges** which currently states:

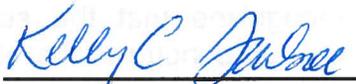
“When the Commission improves a water system or sanitary sewerage system by replacing, augmenting, upgrading, or expanding it in order to provide increased or improved water or sewer service and the necessity for the improvement arises from changes, whether individually or cumulatively, in use or zoning

category of the property, those properties shall derive a benefit from the improved facility and the Commission shall impose System Improvement charges on the benefitted properties for the construction as part of the water or sewer system services.”

There is confusion as to when MetCom would step in due to a category or a use zoning change. Discussion then ensued concerning the intent behind this language and the various issues surrounding such authority and what it means. There was concurrence that this section needs clarification and should appear to be more flexible. Replacing the word *shall* with *may*, makes this section more palatable and less restrictive. It also recognizes that in certain situations, an additional system improvement charge may be warranted as intended by the original text. This was meant to be an exception to **Section 113-29.B(2)(B)** which requires system charges to be uniform throughout. Mr. Calvano noted that these small changes can make the legislation less restrictive and more enabling. Mr. Sparling commented that the wording in this section which first states *property* then changes to *properties*. As a result of extensive conversation, the group agreed that this is confusing and likely the result of poor drafting in the past. Concurrence of the group was that the phrase “*each benefitted property*” better suits this section. Following further discussion, the group agreed that removing the phrase *zoning category* would better serve this section and make it more acceptable. The word *use* should remain as a change of use is at the discretion of the property owner.

The meeting concluded with a short review of items for the September 20 meeting which will be the updated Code Section Amendment Matrix and possibly a draft letter of endorsement from Dr. Brewster. There may be further discussion on the topics already encompassed in the matrix, but it is not anticipated that any new topics will be added. Mr. Carey commented that he welcomes further commentary from other involved parties such as the County, Health Department, and the southern Maryland Delegation for example.

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

**September 20, 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>MM</i>
MetCom Board	Board Member	John Carey	<i>JC</i>
CSMC	Commissioner	Tom Jarboe	
CSMC	Commissioner	James R. (Randy) Guy	
Health Department	Dr. Brewster, Health Officer	Daryl Calvano	
SMC Delegation	Chairman Deb Rey Representative	Delegate Jerry Clark	<i>J.C.</i>
MetCom Staff	Executive Director	George Erichsen	<i>GE</i>
MetCom Staff	CFO	Becky Shick	<i>BS</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	