

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
Tuesday, November 9, 2010**

Present: Commissioner President Francis Jack Russell
Commissioner Kenneth R. Dement
Commissioner Lawrence D. Jarboe
Commissioner Thomas A. Mattingly, Sr.
Commissioner Daniel H. Raley
John Savich, County Administrator
Sharon Ferris (Recorder)

CALL TO ORDER

Commissioner President Russell called the meeting to order at 9:00 am.

ADDITIONS/DELETIONS TO AGENDA

Item 2A, from the Department of Safety, was removed from County Administrator agenda.

APPROVAL OF CHECK REGISTER

Commissioner Mattingly moved, seconded by Commissioner Raley, that the bills submitted for November 9, 2010, be approved as presented by staff. Motion carried 4-1. Commissioner Jarboe voted nay.

APPROVAL OF MINUTES

Commissioner Dement moved, seconded by Commissioner Jarboe, to approve the minutes of the meeting of Tuesday, October 26, 2010, as presented. Motion carried 5-0.

EMERGENCY PREPAREDNESS ESSAY AND ART CONTEST WINNERS

Present: Dave Zylak, Director, Dept. of Public Safety
Jackie Shaw, Emergency Manager, Dept. of Public Safety
Gerald Gardiner, Emergency Planner, Dept. of Public Safety
Mike Wyant, Director of Safety and Security, St. Mary's County Public Schools

Commendations were presented to Dominic Pilkerton (Margaret Brent Middle School), Olivia Morgan (Margaret Brent Middle School) and Emma Gill (Leonardtwn Middle School).

PROCLAMATION WAS PRESENTED FOR AMERICA RECYCLES WEEK

ST. MARY'S CO. PUBLIC SCHOOLS: VETERANS DAY ESSAY CONTEST WINNERS

Present: Dr. Michael Martirano, Superintendent of St. Mary's County Public Schools
Lynn Morgan-Smoot, Supervisor of Instruction for Fine Arts, St. Mary's County Public Schools
Denise Eichel, Principal, Leonardtown Elementary, St. Mary's County Public Schools

Commendations were presented to Bryce Evans, Sydney Smith, Eloisa Chubb, and Madeleine Sawicki, all from Leonardtown Elementary School.

COUNTY ADMINISTRATOR Part I

1. Draft Agenda for November 16, and November 23, 2010.

Commissioner Jarboe requested a Public Forum be scheduled for the evening of December 7, 2010.

2. **Department of Public Safety** (*Dave Zylak, Director*)

Commissioner Mattingly moved, seconded by Commissioner Dement, to approve and authorize Commissioner President to execute the Lease agreement between the County and the State of Maryland on behalf of the Department of Public Safety for construction of the Cecil Park, Valley Lee Tower. Motion carried 5-0.

3. **Department of Economic and Community Development** (*Bob Schaller, Director*)

(Dennis Nicholson, Executive Director, Housing Authority of St. Mary's County (HASMC); Jacklyn Reabe, Program Manager, HASMC; Sandra Johnson, Resource/Service Coordinator HASMC)

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President Russell to execute the “Letter of Intent” to the Maryland Department of Housing and Community Development, Community Development Administration, allowing St. Mary’s County to participate in the FY2011 Maryland Housing Rehabilitation Program, and naming the Housing Authority of St. Mary’s County as the Level II Local Administrator. Motion carried 5-0.

4. Department of Aging (*Lori Jennings-Harris, Director; Peggy Maio, Fiscal Supervisor*)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize Commissioner President to execute the Interim NGA for the FY2011 Title III Federal Grants from the Maryland Department of Aging on behalf of the St. Mary’s County Department of Aging to provide various programs and services to the seniors of St. Mary’s County in the amount of \$123,838 and a related budget amendment to realign budgets based on the Interim Award. Motion carried 5-0.

Commissioner Dement moved, seconded by Commissioner Jarboe, to approve and authorize the Commissioner President to execute the Senior Medicare Patrol (SMP) Notification of Grant Award, project US1161, from the Maryland Department of Aging on behalf of the St. Mary’s County Department of Aging in the amount of \$8,775. Motion carried 5-0.

(Alice Allen, Manager Senior Center Operations, Dept. of Aging)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and accept the Senior Center Operating Application, project MD1118, from the Maryland Department of Aging on behalf of the St. Mary’s County Department of Aging for programs on health, education and promotion of exercise programs with the goal of strengthening these types of senior center-based programs, in the amount of \$16,625. Motion carried 5-0.

5. Department of Public Works and Transportation (*George Erichsen, Director*)

Commissioner Raley moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner President to execute a Deed to The State Highway Administration for the transfer of 0.0387 acres of land, more or less, more particularly described on the SHA Plat No. 55878 and being part of the land described in a deed to the Board of County Commissioners for St. Mary’s County, Maryland, dated June 26, 1970 and recorded among the Land Records for St. Mary’s County, Maryland at Liber 160, folio 216, located in the Eighth

(8th) Election District of St. Mary's County, Maryland, for the purpose of widening MD Rt. 237/ Chancellor's Run Road. Motion carried 5-0.

Commissioner Jarboe moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to execute the Memorandum of Agreement between the County and Maryland Emergency Management Agency on behalf of the Department of Public Works and Transportation, in the amount of \$184,000, and the related budget amendment realigning project sources to be in agreement with the MOA, adding \$600 of County funding to replace grant funds. Motion carried 5-0.

PUBLIC HEARING: TO CONSIDER TRANSFER OF APPROXIMATELY 0.66 ACRES, BEING PART OF PARCEL 64, TAX MAP 127, TO ST. MARY'S NURSING CENTER, INC. AND A RESOLUTION: (1) ABOLISHING THE CITIZENS NURSING HOME BOARD FOR ST. MARY'S COUNTY, (2) ABROGATING A MEMORANDUM OF UNDERSTANDING BETWEEN THE BOARD OF COUNTY COMMISSIONERS AND THE GOVERNING BOARD OF TRUSTEES OF ST. MARY'S NURSING CENTER INC. DATED APRIL 6, 2004, CONCERNING THE PROCEDURE FOR THE APPOINTMENT OF TRUSTEES TO THE BOARD OF TRUSTEES AND (3) APPROVING AMENDMENTS OF THE BYLAWS OF ST. MARY'S NURSING CENTER, INC.

Present: George Sparling, County Attorney

Commissioner Russell opened the Public Hearing at 10:06 am.

Mr. Sparling entered certificates of request for publication to hold this public hearing as part of the record. The hearing consisted of two components: (1) the real estate portion of transferring 0.66 acres of land to the St. Mary's Nursing Center, Inc. and (2) proceeding with the desire of the board to legally disassociate the county with the Nursing Center by releasing control to the non profit organization.

There were no public comments.

Commissioner Russell noted that the record will remain open for ten days for additional written comments from the public and closed the hearing at 10:15 am.

COUNTY ADMINISTRATOR Part II

6. Office of the County Attorney (*George Sparling, County Attorney*)

Commissioner Mattingly moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner President to execute an Easement Agreement from

the Board of County Commissioners for St. Mary's County, Maryland to the St. Mary's Nursing Center, Inc., for the purpose of allowing the St. Mary's Nursing Center to continue to use the designated parking area jointly with the St. Mary's County Health Department. Motion carried 5-0.

7. Department of Recreation and Parks *(Phil Rollins, Director)*

(Nat Scroggins, Mike Brown, Janice Walthour, UCAC Members)

Commissioner Raley moved, seconded by Commissioner Dement, to approve and authorize the Commissioner President to sign Modification No. 002 to the U.S. Government Lease N62477-98-RP-00055 for John G. Lancaster Park at Willows Road to enable the UCAC to move forward with constructing the Civil War Memorial at the park. Motion carried 5-0.

(Debra Pence, Museum Division, Dept. of Recreation and Parks)

Commissioner Dement moved, seconded by Commissioner Mattingly, to approve and authorize the Commissioner President to sign the new Deed of Easement for the Piney Point Lighthouse Museum and Park picnic area, known as Lot 1 of Tolson's Subdivision, and the Second Modification to the existing Deed of Easement for the Piney Point Lighthouse Museum and Park. Motion carried 5-0.

COMMISSIONER'S TIME

The Commissioners highlighted upcoming events and those attended over the past week.

Commissioner Jarboe noted, in order to economize, the newly elected commissioners will pay privately for refreshments at the Oath of Office ceremony and each will pay the postage for their invitations.

RECESS

PUBLIC HEARING: TO CONSIDER AMENDMENTS TO THE ST. MARY'S COUNTY BUILDING CODE

Present: Derick Berlage, Director, Dept. of Land Use and Growth Management
Adam Knight, Code Coordinator, Dept. of Land Use and Growth Management

Commissioner Raley opened the Public Hearing at 5:30 pm. Commissioner President Jack Russell was unable to attend the hearing.

Mr. Knight stated that notice of the hearing was announced in the newspaper on October 22, 2010, and October 27, 2010. He explained the proposed changes to the St. Mary's Building Code to conform with the Current Maryland Building Performance Standards (MPBS), which includes the 2009 International Building Code, 2009 International Residential Code for One and Two Family Dwellings, and the 2009 International Energy Conservation Code. Most jurisdictions usually adopt the Code in its entirety, but they do have the option to make changes. A significant change for the County this year is that the IRC requires the addition of sprinkler systems in all one and two family dwellings, and the current St. Mary's County Code only requires sprinkler systems in single family dwellings that are on a central water system. He explained various types of systems to meet these needs. Mr. Knight referred to Prince George's County who was the first county in the nation to adopt the comprehensive residential fire sprinkler requirement. Statistics from a 15-year study of fires in Prince George's County prove the wet system is a reliable system, with no problems with false activation, no freezing issues, and that it saves lives and property destruction. He also noted the Department of Land Use and Growth Management staff is recommending adopting the new codes in their entirety with an implementation date of January 3, 2011.

Commissioner Raley opened the hearing for public comments.

Public Comments. *(Comments as noted below are intended as highlights of testimony given and are not verbatim)*

Robin Guyther, P.O. Box 502, Leonardtown, MD 20650

Mr. Guyther, Chairman of Building Code of Appeals Board clarified a misunderstanding of the role of the Board. The Board reviews the State building codes to make sure everything matches up with County's code. The Board recommends change to local laws when they do not match state. He noted the Board is not a policy making body.

Keith Fairfax, Walnut Ct., Lexington Park, MD 20650

Mr. Fairfax, speaking on behalf of the Lexington Park Fire Department requested the County to adopt Building Planning, Chapter 3, Section R313 Automatic Fire Sprinkler Systems, change the effective date to January 1, 2012, adopt associated sections R314 & 315, adopt Water Supply and Distribution (Chapter 29) and consider exemption for the Amish population.

William Wilkerson, P. O. Box 51, Mechanicsville, MD 20650

Mr. Wilkerson, President, Southern Maryland Volunteer Fireman's Association speaking on behalf of the Association supports adopting in its entirety, the Automatic Fire Sprinkler System Section of the 2009 International Residential Code, Section R313.2.

Chris Graham, 22794 Brown Rd., Leonardtown, MD 20650

Mr. Graham questioned Notification of Code Change procedures. He requested a master list be maintained and all builders being notified rather than finding out when a paper is posted on the building site.

Andrew Snyder, MD State Fire Marshall's Office, Prince Frederick, MD 20678

Mr. Snyder supports adoption of the 2009 edition of the International Code, particularly the provision that require fire sprinklers in all newly constructed one and two family dwellings. Prince George County has had great success with its single-family residential fire sprinkler ordinance. Additional cost to construction is about \$1.00 per square foot. Contrary to what some believe, fire sprinklers go off only where the fire is located not all over the house. Benefits are you save lives and dwellings.

Commissioner Jarboe asked what percentage of Prince George's County is on wells. That information was not available.

Charles Bryson, 39308 Persimmon Ck. Rd, Mechanicsville, MD

Mr. Bryson was a previous Building Inspector in St. Mary's County. Agrees that each municipality has the right to adjust their codes. Likes the idea of saving lives. Feels residential sprinkler is just a band aid fix. Suggested bringing issue to people of the County to see if this is what they want. He suggested waiting until technology is in place before adopting code change and there are new products coming out every day.

Commissioner Mattingly strongly disagreed with comments by Mr. Bryson, stating that technology is here and this is not a band-aid fix.

Mr. Don Parsons, South Coral Rd., Lexington Par, MD

Mr. Parsons, Executive Director for Habitat for Humanity stated that since 2008 every home Patuxent Habitat built has been equipped with a sprinkler system. Sprinklers save lives and mitigates property destruction.

Commissioner Jarboe questioned the additional cost to the units. Mr. Parsons could not provide this info because donations and volunteers help subsidize the cost of homes built by Habitat.

Bob Miedzinski

Mr. Miedzinski, Chairman of the County's Emergency Services Committee noted they unanimously support the sprinklers and he forwarded a letter of support to Commissioners over the weekend.

Keith Fairfax, Walnut Ct., Lexington Park, MD 20650

Mr. Fairfax commented that CPVC piping is not plastic, generally protected by sheet rock and insulation. In Lexington Park fires in town homes it is generally a clean up situation due to the fire sprinklers. Technology, International Residential Code has the largest cadre of technologist, specialists, engineers, skilled tradesmen who have recommended this code.

Mr. Jim Bacot, Hollywood, MD 20636

Thanked Commissioners for their years of service. He suggested putting code change to vote by people in community. He questioned if the advertisement for this Public Hearing actually contained the word "Sprinkler System".

Commissioner Raley asked Land Use and Growth Staff if “Sprinkler” was mentioned in the newspaper. The response was no. Commissioner Raley suggested that future Public Hearing announcements be more specific on topics to be discussed.

Don Knott, 20648 Old Sawmill Lane, Leonardtown, MD 20650

Mr. Knott said he has been a Builder for 20 years. He recently built a home in Charles County which has the sprinkler requirements and added additional \$2.50 per sq. ft. to put the system in. He also said he had problems finding qualified person to install the system.

Andrew Snyder, MD State Fire Marshall’s Office, Prince Frederick, MD

Mr. Snyder noted although there are no contractors in St. Mary’s County there is one in Charles County and one in Calvert County. A list of licensed sprinkler installers is listed on the State Fire Marshall’s website.

Don Medley, P.O. Box 862, Hollywood, MD 20636

Mr. Medley has been a fireman for 40 years and supports new code. He shared experiences as fireman noting devastation to families as they loose their possessions and homes. He said sprinklers do save lives. He stated having a sprinkler is like having a fireman sitting in your room 24/7.

Chief Joe Gould, 20659 Three Notch Road, Lexington Park, MD 20653

Mr. Gould, Chief of Bay District Volunteer Fire Department and a fireman for over 16 years and supports the system. He described a fire scenario in King George’s County in which a house burnt to ground in a matter of minutes. He invited individuals to a Sprinkler Trailer demonstration to show the benefits of system. He also noted Lexington Park has the largest amount of trailer parks in the county. Bay District Volunteer Fire Department personnel recently visited 9 trailer parks providing smoke detectors and batteries for detectors.

Tom Mattingly Jr., P.O. Box 69, Leonardtown, MD 20650

Mr. Mattingly, Fire Chief of Leonardtown Fire Dept., described incidents over the last few years where having a sprinkler system could have been significant. He and his crew fell through a roof at a working fire but was fortunate that none were injured or lost. He also noted an elderly gentleman in Hollywood who recently lost his life, noting that he did have a medical alert system but no sprinkler system in the house which might have saved his life.

Commissioner Raley noted the Board would accept written comment for ten days. He also commented to those who are wondering, since this is an election year, I said the record would be open for at least 10 days which would make the voting on this issue the last meeting of the current Board if they so desired to do so. He noted that all of the newly elected Board members were present and would receive a copy of this hearing in case the decision was left for them.

Commissioner Raley closed the hearing at 7:00pm.

**JOINT BOCC AND ST. MARY'S COUNTY DELEGATION PUBLIC MEETING
RE 2011 LEGISLATIVE PROPOSALS, 6:30 PM**

Present: George Sparling, County Attorney
David Weiskopf, Deputy County Attorney

Also in attendance: Delegate John Bohanan
Delegate Anthony O'Donnell
Delegate John F. Wood, Jr.

Commissioner Dan Raley noted that Commissioner President Jack Russell was unable to attend the meeting and that he would be chairing the meeting at Commissioner Russell's request.

The purpose of the Joint Public Meeting was to provide an opportunity for the Commissioners, the Delegation, and public to hear presentations and provide comments on the 2011 Legislative Proposals. Three proposals were submitted for 2011.

Mr. Weiskopf reviewed the first proposal and Mr. Sparling reviewed the next two proposals. Submitters were asked to comment on their proposals, and after Board and Delegation comments and discussion, public comments were called for on each proposal.

PROPOSAL #1: To add a Corrections Officer's Bill of Rights for St. Mary's County
Proposed by: Sheriff's Office Corrections Division, Tim Cameron, Sheriff
Presenter: Capt. Michael Merican, Commander, Corrections Division

Delegate Bohanan noted that this proposal was agreed to in the House last year, but time ran out before it could proceed through the Senate.

Mr. Weiskopf provided additional information on the proposed bill. The bill would provide for rights of a correctional officer relating to the employment, investigation, and discipline of correctional officers in St. Mary's County. The bill's provisions are similar to the provisions of the Law Enforcement Officer's Bill of Rights that has been around since 1974 and would take the grievance process for Corrections Officers out of the Human Resources Department and place it with the Sheriff's Office.

Cecil County is currently the only other County that has adopted the Correctional Officer's Bill of Rights. When reviewing Cecil County's bill, Sheriff Cameron and Capt. Merican noticed that one piece was missing and that was the definition of a Correction Officer. Sheriff Cameron is requesting the addition of this definition in this year's proposal: "Correctional Officer" as used in this subtitle, does not include an officer who is in probationary status on initial entry into the Correctional Agency except if an allegation of brutality in the execution of the officer's duties is made." This was in the Law Officer Bill of Rights, but was accidentally omitted from the Cecil County Correctional Officers Bill of Rights. Cecil County is in the process of adding this definition into their bill as well.

Capt. Merican indicated that the proposed bill has the strong support of Sheriff Cameron and the Correctional Officers.

Delegate O'Donnell asked if there will be a submittal to this effect from Cecil County to the legislature this year. If not, Cecil County will need to be asked to co-sponsor this legislation or at least agree to change their county-specific legislation since St. Mary's County's proposal will impact their Code.

Mr. Savich will ensure coordination occurs with Cecil County and the results are made known to the newly-elected Board of County Commissioners before taking their positions on December 7th and that the matter is ultimately made clearer to the Delegation.

Public Comments: There were no comments from the public on this proposal.

PROPOSAL #2: To clarify that members and employees of the St. Mary's County Metropolitan Commission are subject to the provisions of the St. Mary's County Public Ethics Ordinance. *Proposed and Presented by: George R. Sparling, County Attorney*

The Board of County Commissioners has requested amendment of 15-807 of the State Government Article of the Annotated Code of Maryland in order to clarify that MetCom commissioners and employees are subject to the St. Mary's County Public Ethics Ordinance (including the provisions governing conflicts of interest, financial disclosure, and lobbying). The statutory amendment would enable the Board of County Commissioners to adopt amendments to the Ethics Ordinance appropriate to the structure of MetCom.

This proposal is intended as a response to the Metropolitan Commission Task Force recommendation #10 which Stated that there should be the formal requirement that the Director of MetCom annually file the financial disclosure form with the County Ethics Commission.

Commissioner Mattingly asked if MetCom currently falls under the State ethics laws. Mr. Sparling indicated that there appears to be some ambiguity, but it has been his impression that there has been a general perception that MetCom has been subject to neither the State or the local ordinance. Mr. Sparling will confirm this and include this information in the transmittal of Board of County Commissioner's positions on the legislative proposals.

Delegate O'Donnell asked if the St. Mary's County Ethics Law is more restrictive than the State ethics law. Mr. Sparling responded that he has not undertaken a comparison of the two laws.

Delegate Bohanan asked what the impact would be on MetCom if the County ethics law is imposed. Mr. Sparling Stated that it would clarify that MetCom's executive personnel

are required to file annual Financial Disclosure Forms and that all MetCom employees are subject to conflict of interest provisions.

Commissioner Raley referenced a letter from MetCom, dated November 8, 2010, and received this date, that discusses the findings of a MetCom consultant as to whether MetCom should come under local or State ethics laws.

Public Comments:

Katie Werner, Chairperson, Metropolitan Commission

The Metropolitan Commission does not support this proposal. It is against Metropolitan Commission officials being subject to the County Ethics Law and recommends that it be formalized under State ethics laws. We are in agreement and support the other MetCom Task Force recommendations that require legislation (#'s 3, 5 and 13). Task Force recommendation #8, a comprehensive review of Chapter 113 of the County Code, will be deferred to the 2012 Legislative session.

MetCom believes that Legislative Proposal #2 goes far beyond the Task Forces' recommendation #10, which was to formally require the MetCom Director to annually file a financial disclosure form with the County Ethics Commission. Metropolitan Commission retained the law firm of DLA Piper to determine whether MetCom's structure is more consistent with State and local ethics law. DL Piper concluded that the State ethics law applied to the Metropolitan Commission's senior staff and the Metropolitan Commission's structure was consistent with the requirements of State law.

Chairman Werner described the detrimental impact (including the potential loss of the current Executive Director) that the MetCom Board feels it would suffer with the passage of this amendment and requested that instead of proposal # 2, legislation be put forth to place MetCom under the purview of Maryland State Ethics Law. With regard to the true text of Task Force recommendation # 10, the MetCom Board intends to take up this recommendation and has no problem with requiring the Executive Director to file a Financial Disclosure Form with the County Ethics Commission as she is currently doing as a member of the Development Review Forum.

Delegate O'Donnell Stated that this issue is a matter of policy and a decision should not be made based on the current person in the position.

It was agreed that the County Attorney will provide a side-by-side comparison of State vs County ethics requirements and a description of the County Ethics Commission process to the newly-elected Board of County Commissioners and the Delegation.

Joe St. Clair, Vice Chair, Metropolitan Commission

Mr. St. Clair described what the MetCom Commission feels are unintended consequences of this proposal, commenting on the performance of the current Executive Director and her ability to save MetCom and its customers money, and requesting that MetCom fall under the State Ethics law. County Ethics Commission did not find a conflict with her continuing to serve as both Executive Director and Legal Counsel to MetCom.

Delegate O'Donnell reaffirmed his position that the proposal is about policy, not about the current director and her performance, and that his decision would be based on policy alone. Commissioner Raley asked that if MetCom comes under the County ethics law, would the current director be able to continue her outside law practice. Mr. St. Clair responded that she would not be able to continue the outside law practice. Mr. Sparling clarified that she would not be permitted to represent a client before any County board or agency.

Regarding Task Force recommendation #11, Delegate Bohanan asked if it is currently allowable under the County Ethics Ordinance to have the same person serve as County Administrator and County Attorney. Mr. Sparling said that under Article 25 of the Maryland Code, this would be up to the Commissioners. Delegate Bohanan cited problems experienced at the State level when the same individual performs both functions.

Tom Tudor, Commissioner, Metropolitan Commission

MetCom was created by the State and is regulated by the State. We are opposed to employees and MetCom in general coming under the St. Mary's County Ethics Law. The consultant we hired to give their legal opinion has said that given the way we operate, it's from a State perspective, and there is nothing to indicate we are a County agency.

Commissioner Raley Stated that he agrees with Delegate O'Donnell in that this matter is not just about the existing Executive Director, and if that was the case, there would be no problem. In addition, to support the proposal to include Metcom under County Ethics Law, MetCom only does business in St. Mary's County and its customers are only in St. Mary's County.

PROPOSAL #3: To amend Chapter 113 of the Public Local Laws; to address the recommendations in the Final Report of the Metropolitan Commission Task Force dated June, 2010; to correct typographical errors, inconsistencies and ambiguities resulting from the Commission's rate restructuring in October, 2007; to delete archaic sections and correct long-standing general inaccuracies within the Code. *Proposed and presented by: Jacqueline Mesier, St. Mary's County Metropolitan Commission; and George R. Sparling, County Attorney. Elaine Kramer, St. Mary's County CFO, also provided comment.*

Mr. Sparling referred to the table provided to the Board and the Delegation which correlates provisions of proposed amendments with the Task Force recommendations and

references statutory provisions. Proposal #3 is intended to address Task Force recommendations 3 and 5. Recommendation 8 will be deferred to the next Legislative Session, and recommendations 11, 12 and 14 are internal with MetCom and not readily susceptible to legislation or are policy questions. The proposed revised Chapter 113 also contains a number of technical “housekeeping” amendments to correct typographical errors and other long-standing inaccuracies.

Task Force recommendation #5 was that the County Code be amended to: (1) remove the requirement that MetCom’s borrowings shall be in all cases secured by the full faith and credit of the County; (2) require the approval by the Board of County Commissioners of MetCom’s Capital Plan/Budget and Facilities Plans; and (3) require that the Board of County Commissioners annually amend the County Water and Sewer Plan to incorporate MetCom’s Capital Plan. The response was to rewrite 113.6, 113.7A, 113.7B, 113.5B, amend 113.5C, and add a new 113.30.

Mr. Sparling asked Ms. Meiser to provide background and new information related to the proposed amendment to remove the requirement that MetCom’s borrowings be in all cases secured by the full faith and credit of the County. In 2007, Section 113 of the Code of Maryland was significantly amended to allow MetCom to annually review and set its rates, so that if there is a shortfall, it can adjust its rates appropriately to ensure significant debt service to meet its obligations. Based on this provision, the Task Force felt it was no longer necessary to require the County’s full faith and credit.

The legislation as presented in the proposal does remove the requirement for the County’s full faith and credit, but it leaves in place the *option* for that to happen. Today, Ms. Meiser learned that the MD Dept. of Housing and Community Development’s and the Maryland Department of the Environment’s Bond Counsels are saying that as long as the option exists for MetCom to borrow with the full faith and credit of the County, they will require that option to be exercised. That could create some complexities for MetCom, for as long as MetCom debt is backed by full faith and credit of the County, that is a general obligation pledge, otherwise, it will be viewed as a revenue pledge, which is considered not as good of a guarantee in the eyes of lender

Ms. Meiser further Stated that what the bond counsels don’t realize is that by virtue of statute, MetCom’s fees are a first lien against the property, and so although it’s not a general obligation bond, and because it’s not an ad valorem tax, it is sort of a hybrid. It’s also not a mere revenue pledge. Therefore, the agencies are viewing as some kind of hybrid and are willing to talk more and take the matter back to their bond counsel to see if they would be willing to lend without the full faith and credit of the County -- even if the option exists. Discussion on the matter will continue.

Ms. Kramer Stated her concern that there is currently \$30m in existing full faith and credit MetCom debt. In trying to balance the flexibility that the Task Force thought MetCom should have and in seeking to protect the County’s position, the simplest thing would be to say any new debt would have to be subordinated to the County. That, in

essence, would render any new debt impracticable on a sole credit basis. What happens as a result of some of the proposed changes was a combination of efforts to allow us to protect county position: (1) BOCC approval of MetCom's Capital Program and form of financing for projects; (2) certification that MetCom will charge the rates adequate to fund debt service for the county; and (3) require sinking fund to ensure that we have access to funds to cover us for two years if unable to fund debt service.

Delegate O'Donnell Stated his concern that MetCom would have the ability to issue debt without the approval of the elected officials who will have to back the debt even though they didn't approve it.

Delegate O'Donnell asked why Task Force recommendations 11 and 14 were not addressed in the legislative proposal and asked that the Board of County Commissioners forward its recommendations on these two items to the Delegation along with its positions on the legislative proposals. Delegate Bohanan agreed that it would be most beneficial to have MetCom's and the newly-elected Board of County Commissioners' status as to implementation of these two Task Force recommendations, and if not implemented, indicate why, and propose alternatives.

Mr. Savich recommended that the newly-elected Board take this matter up when it takes positions on the legislative proposals on December 7.

Delegate O'Donnell suggested that the Board of County Commissioners conduct a public hearing on Task Force recommendations 11 and 14.

There were no public comments on proposal #3.

Commissioner Raley asked the public to send in their comments to the Board of County Commissioners related to tonight's public meeting and adjourned the meeting at 9:02 pm.

Minutes Approved by the Board of County Commissioners on _____

Sharon Ferris, Senior Administrative Coordinator (Recorder)