

Commission meetings & corresp.

Feb 1986

MSA - S1832 - 18

AGENDA

Chesapeake Bay Critical Area Commission
Department of Agriculture
50 Harry S. Truman Parkway
Annapolis, Maryland

February 5, 1986

4:00 p.m. - 6:00 p.m.

- | | | |
|-------------|-----------------------------------------------------------------------------------|------------------------------------------------------------------|
| 4:00 - 4:15 | Approval of 1/8/86
Minutes | Solomon Liss
Chairman |
| 4:15 - 4:30 | Water Quality Services,
Dept. of Health &
Mental Hygiene | Richard Sellars,
Director, Water
Management Administration |
| 4:30 - 4:45 | Planning Services
Dept. of State Planning | Larry Duket, Planner
Comprehensive Policy
Planning |
| 4:45 - 5:00 | Agricultural Services
Dept. of Agriculture | Ernest Shea,
Assistant Secretary |
| 5:00 - 5:15 | Community Development
Services
Dept. of Economic &
Community Development | Ardath Cade,
Assistant Secretary |
| 5:15 - 5:45 | Policy Issues and
Framework for Analysis | Commission Staff |
| 5:45 - 6:00 | Old Business
New Business | Solomon Liss
Chairman |

Next Commission Meeting - March 5th

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held
January 8, 1986

The Chesapeake Bay Critical Area Commission met at the Department of Economic and Community Development Building in Annapolis, Maryland. The meeting was called to order by Chairman Liss with the following members in attendance:

Barbara O'Neill	Shepard Krech, Jr.
Florence Beck Kurdle	Mary Roe Walkup
Harry T. Stine	Samuel E. Turner, Sr.
Thomas L. Jarvis	J. Frank Raley, Jr.
Ann Sturgis Coates	William Bostian
Lynn Hoot for	Parris Glendening
Wayne Cawley, Jr.	Ardath Cade
James E. Gutman	Robert Price, III for
Constance Lieder	Robert Price Jr.
Lloyd S. Tyler, III	Ronald Hickernell
Clarence "Du" Burns	

The minutes from the previous meetings of December 4th and November 13th were approved as written.

Ms. Jane Nishida, Assistant Legislative Officer for the Governor, reviewed the status of the Critical Area Commission resolution. She said that on January 15th, Administration Bills including the resolution, would be submitted. The language in the resolution is taken directly from the Act, and will be part of the Governor's Legislative packet. The Environmental Matters Committee, chaired by Delegate Young, will establish a subcommittee to review the resolution and, in the Senate, Senator Stone's full committee will review the legislation. The Savings and Loan crisis has delayed the timing of the planned discussions of the resolution, but it is hoped that they will be heard in early February. It is anticipated that the resolution will be acted on first, and then any other legislation which is submitted, will then be discussed. Ms. Nishida expressed Administration optimism on the passage of the resolution, but indicated that there is strong opposition from the Eastern Shore, and that as much help is needed as possible. She urged Commission members to attend hearings. With regard to funding, there is a portion of the Governor's budget specifically allocated to local technical assistance for Critical Area Program implementation. J. Frank Raley asked if the Administration has discussed any method of compensation and Ms. Nishida responded that the Governor's Office has not. On the other hand, some of the Cabinet Secretaries are reviewing existing programs which might be enhanced in order to provide financial and other incentives to landowners. When asked about the effect of other bills on the Critical Area Act, she said that the statute can be amended by other legislation, but that the Administration hopes that the piece-meal shots of weakening the Critical Area Act will be opposed.

Chairman Liss indicated that the Commission will proceed

with its planning in the hope that the criteria will be approved. He then announced that a workshop will be held on January 21st for Commission members as well as local government representatives to discuss various issues and planning problems. Kevin Sullivan addressed the Commission and told them about the availability of a draft criteria application handbook that would be distributed at the workshop. Chairman Liss then appointed a subcommittee to help with a review of the handbook which will further assist local governments. Florence Kurdle was appointed Chairman with the following members included: Ronald Hickernell, Albert Zahniser, Robert Price, William Bostian. Two Eastern Shore and two Western Shore planners will be appointed at the workshop on the 21st to join the Commission Members. J. Frank Raley expressed concern regarding whether policy decisions would be delegated to a subcommittee, and the point was made that they would only be reviewing the handbook and that the Commission would have full discussions over any policies that would be made. Mary Walkup urged that any communications regarding the criteria be shared with the Commission before going to the general public. Charles Davis then presented the agenda for the workshop. He said that three issues would be addressed at the workshop including mapping, growth allocation and project approval. Small group discussions would be held around each issue. An agenda for the workshop was passed out to the members.

The balance of the meeting was devoted to the presentations by representatives of State agencies which are developing information which will be of use to local governments in the development of their Critical Area program.

Jay O'Dell, Tidewater Administration, indicated that there is a DNR survey of anadromous streams. It has been developed during the past 18 years and is complete, except for the lower Eastern Shore. Sample handouts of the survey for seven anadromous fish species were given to Commission members.

Harold Cassell, Chief of the Wetlands Division, DNR, showed samples of existing Wetlands Maps which include the Critical Area. The Department initiated aerial photography to provide the basis for an updating of the new wetlands maps. The photography is available for use by the local jurisdictions. Reviewed wetlands maps are available, except for Baltimore, Hartford, and St. Mary's Counties, which will be available in two to three weeks. It will take 1½ years for delineation and promulgation of totally new wetlands maps.

David Burke, Non-Tidal Wetlands Program, said there are National Wetlands Inventory Maps available by type, water regime, and vegetative cover for every county. There are also maps on a county scale which will be available in June 1986, for the Western Shore and in July 1987, for the Eastern Shore. All wetland information is being digitized and tabulations will be available by county. Other available materials include a plant list and a Non-Tidal Wetlands Management Handbook with a model ordinance. Mr. Burke said that two persons have been hired for field work in assisting the local governments. Submerged aquatic

vegetation maps will be available to local governments by October.

Len Wrabel, Bay Forester, said that \$80,000 was being requested for mapping and aerial photography and 12 additional foresters have been requested. Their task will be to assist landowners and local governments in timber typing, development review, buffer, and development design. The State can assist in in the development of Forest Management Plan.

Gary Taylor, Non-Game Endangered Species program, said that a Breeding Bird Atlas is available with State-wide information. It includes at least 200 species and identifies those which are significant. A survey of colonial nesting water birds is available on U.S. Geological Survey sheets, as is data on Bald eagles, Delmarva fox squirrel, and other endangered species. Additionally, information is available on resident waterfowl populations. His program has requested four positions which will work with local governments and landowners for development of species and Buffer Management Plans as well as field investigation work. There is an Acres for Wildlife Program which provides incentive to private property owners to receive credit for wildlife programs and construction of habitat breeding areas for tax deductions.

D. Daniel Boone, Natural Heritage Program, said that there is a book entitled Threatened and Endangered Plant and Animals of Maryland (1984) which lists 600 species of plants and over 150 animals (five years worth of data). His program can provide local governments with information on protecting various plant and animal species. The Rare and Endangered Program now lists three animals in the Critical Area which include the Narrow-mouth toad, the Bald eagle, and the Delmarva squirrel. The program hopes to promulgate a list of 100 more threatened and endangered species which are currently on a federal waiting list. Pending activities include development of a non-tidal wetland inventory along with threatened and endangered species, an updated computer system, and working with the State's Easement programs to contact landowners who have significant threatened and endangered species on their properties.

Chairman Liss then introduced a new Commission staff member, Dawnn McCleary, and Elder Ghigiarelli, the Coastal Zone Management Program Coordinator with the Coastal Resources Division of DNR.

The next Commission meeting will be held on February 5th at 4:00 p.m.

There being no further business, the meeting was adjourned.

These minutes were prepared by Helene Tenner.



Commission
Subcommittee
Development

TORREY C. BROWN, M.D.
SECRETARY

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES
CHESAPEAKE BAY CRITICAL AREAS COMMISSION
TAWES STATE OFFICE BUILDING
ANNAPOLIS, MARYLAND 21401

JUDGE SOLOMON LISS
CHAIRMAN

February 19, 1985

MEMORANDUM

TO: Subcommittee #1

- Florence Beck Kurdle
- J. Frank Raley, Jr.
- Harry T. Stine
- Dr. Shepard Krech, Jr.
- Samuel E. Turner, Sr.
- Mary Roe Walkup
- Ann Sturgis Coates
- John Luthy, Jr.
- Wayne A. Cawley, Jr.
- Torrey C. Brown

FROM: Sarah Taylor *[Signature]*

SUBJECT: Summary of Notes from Easton Workshop

I. General Ideas to Achieve the Goal of Criteria Development

- A. Develop general guidelines to submit to local governments for program development and implementation;
- B. Determine endangered elements in the State;
- C. Develop absolute standards for endangered areas - quantify standards;
- D. The Commission should establish criteria by which to evaluate local program's response to the standards;
- E. Be clear on goals and process;
- F. Establish resource protection policies - avoid regulatory fever;
- G. Be general initially;
- H. Distinguish between existing and new resource based activities; i.e., if existing activities impact the Bay - develop general, but specific policies to limit impact;
- I. Criteria need to evolve and need to be flexible;
- J. Criteria are needed for the Commission to use if a jurisdiction does not develop a program.

II. Some Initial Policies and Overall Goals

- A. Highly erodible land should not be developed;
- B. Should consider Natural Heritage Areas as "stay away from" areas;
- C. Overall Goal - The Bay is the resource. If activities are impacting fish and shellfish such that they are becoming endangered, those activities should not be allowed.

III. Thoughts on Forestry

- A. Agreed - that trees removed indiscriminately has an impact so resorestation should be increased in the critical area.
- B. Agreed - where trees have been removed - look at ways to encourage reforestation.
- C. Agreed - where there is a need to cut trees, cutting can occur in the 1000 foot, but should be done according to good management practices which need to be identified;
- D. Agreed - need to find ways to encourage communities to participate in reforestation and find ways to do so.
- E. Need to establish non-commercial tree cutting policies.
- F. Need to link forestation policies with sand and gravel policies;

IV. Thoughts on Sand and Gravel

- A. Agreed - this it is an activity that is needed;
- B. Agreed - abandoned pits need to be better managed;
- C. Agreed - existing operations need to look at ways to improve their operations as they affect the resources;
- D. Agreed - need to direct new operations away from the critical areas identified by the 3rd Subcommittee.

V. Thoughts on Aquaculture

- A. Agreed - In Maryland, there is a minimal existing program that has no adverse impact;
- B. Agreed - that aquaculture should be encouraged and ways must be found to do so.

MEMORANDUM TO: Subcommittee #1
Summary, Notes from Easton Workshop

VI. Thoughts on Agriculture

- A. Agreed - Agriculture should be preserved while establishing best management practices;
- B. Agreed - keep criteria flexible. Farmers want absolutes with reasonable compensation;
- C. Agreed - there should be incentives for agriculture, local governments, developers, property owners.

VII. Final Comments

- A. We agreed to meet every 2 weeks in Annapolis at 1:00 p.m. (2/13, 2/27, 3/13, 3/27);
- B. We agreed to address policies first with the experts. Then the next meeting would be devoted to criteria
- C. We agreed to address forestry, then sand and gravel and would see how we are moving ahead.

SJT/ses

cc: Solomon Liss
Lee Epstein
Kevin Sullivan
Charlie Davis
Tony Redman

*Commiss
mtg*



JUDGE SOLOMON LISS
CHAIRMAN

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREAS COMMISSION
DEPARTMENT OF NATURAL RESOURCES
TAWES STATE OFFICE BUILDING
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SARAH J. TAYLOR, PhD
EXECUTIVE DIRECTOR

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February 28, 1986

Dear Commission Member:

This is to remind everyone of the Commission Meeting to be held on March 5, 1986, at the Department of Agriculture Building, 50 Harry S. Truman Parkway, Annapolis, Maryland at 4:00 p.m. until 6:00 p.m.

At the meeting, I will give an update on the progress of the Resolution and the amendments. We will also discuss and perhaps decide upon some of the issues raised at the local government workshop of January 21st.

Enclosed for your review are the agenda and minutes of the February 5th meeting.

Sincerely,

Solomon Liss,
Chairman

SL/jjd

Enclosures

CABINET MEMBERS

- Torrey C. Brown, M.D.
Natural Resources
- Wayne A. Cawley, Jr.
Agriculture
- William Eichbaum
Health and Mental Hygiene
- Ardath Cade
Economic and Community Development
- Constance Lieder
Planning

DEVELOPMENT IN THE CRITICAL AREA

DEFINITION

The Critical Area Commission is charged with the development of criteria that will accomodate growth and also provide for the conservation of habitat and the protection of water quality in the Critical Area. In this section, criteria are proposed for directing and controlling development (e.g., residential, commercial, and industrial and related facilities) so that the adverse impacts of growth in the Critical Area are minimized. These criteria are based on the following policies:

POLICIES

It is the policy of the CAC to:

- 1) Control activities which disturb the land and habitat within the Critical Area.
- 2) Provide, by design and locational criteria, that such activities will have minimal individual and cumulative negative impact on water quality and fish, wildlife and plant habitat in the Critical Area.
- 3) Create a Resource Protection Area (RPA) which prohibits all land disturbing activities except as provided herein.
- 4) Improve the quality of run-off from developed areas that enters the Chesapeake Bay and its tributary streams.
- 5) Accomodate additional development providing that water quality is not impaired.
- 6) Conserve and enhance fish, wildlife and plant habitats including forested areas, its biological heritage, diversity and productivity.

LOCAL PLAN REQUIREMENTS FOR DEVELOPMENT ACTIVITIES

- 1) Local jurisdictions shall develop a plan and associated policies and implementation programs for designating areas suitable for development and resource protection. Such plans and programs should include the re-evaluation of areas currently zoned to determine if current policies are consistent with the Critical Area Program.

2) The plan shall specify a process whereby information is considered in designating areas suitable for development according to all program criteria.

CRITERIA

1) New development activities shall not be permitted in the RFA unless it can be shown that at least three of the following apply:

- a) the use is water-dependent;
- b) the project meets a recognized public right or need;
- c) the adverse effects on water quality and fish, plant and wildlife habitat are minimized;
- d) the activities are consistent with an approved local plan as required above.

2) Development shall be subject to the RFA criteria prescribed in section ____.

3) All development including roads, bridges and utilities shall be designed and installed to :

- a) maximize erosion protection and the positive impacts to wildlife, aquatic life, their habitats and water quality;
- b) reduce increases in flood frequency and severity that are attributable to development;
- c) maintain stream water temperature within normal variation;
- d) provide a natural substrate for streambeds;
- e) provide instream cover;
- f) reduce pollutant levels on land and in water.

4) All development plans shall include an open space/wildlife corridor system that will provide continuity of on-site wildlife and plant habitats with off-site habitats. The open space/wildlife corridor system shall be maintained through a conservation easement, restrictive covenants or similar instruments.

5) All development project review shall incorporate the recommendations of the Maryland Forest Park and Wildlife Service.

- a) All woodlands to be cleared shall be replaced on an equal area basis *within the critical area.*
- b) ~~No more than 10% of any woodland may be cleared. The remaining 90% shall be maintained through restrictive covenants or similar instruments.~~
- c) Local programs shall require guarantee mechanisms including penalties to assure satisfactory reforestation.

*Local government shall provide
for a penalty for*

d) Woodlands cleared less than 5 years prior to application for development, ~~shall be reforested at a rate of three times the original area-forested.~~

e) All development shall provide a minimum of 25% forested area.

6) Local Stormwater Management Ordinances shall apply to all development activities within the Critical Area.

7) Sediment Control Ordinances shall apply to all land disturbance activities in the Critical Area, including agriculture.

8) Agriculture, forestry, aquaculture and low density development shall be considered the preferred use of land within the Critical Area. Land use and management shall be consistent with the policies and criteria stated in section ____.

9) Agriculture and conservation easements shall be actively promoted in the Critical Area.

10) Local jurisdictions shall pursue and develop effective tax and other incentive/disincentive programs to promote the continuation of agriculture, forestry and natural habitats.

11) Certain development activities of facilities, because of their intrinsic nature, or because of their potential for adversely affecting habitat or water quality, shall not be permitted in the Critical Area. These include, but are not limited to the following:

a) non-maritime heavy industry

b) transportation facilities and utility transmission facilities except those necessary to reach water-dependent uses, or where regional or interstate facilities must cross tidal waters (not including power plants).

c) solid or hazardous waste, collection, storage and disposal facilities, sanitary landfills and sludge handling, storage and disposal facilities. Existing permitted facilities or expansion of such facilities, shall be subject to the standards and requirements of the Maryland Department of Health and Mental Hygiene.