

Committee Meetings & Correspondence June 1987

USA 51832-34



*Commission  
mtgs.*

JUDGE SOLOMON LISS  
CHAIRMAN

STATE OF MARYLAND  
**CHESAPEAKE BAY CRITICAL AREAS COMMISSION**  
DEPARTMENT OF NATURAL RESOURCES  
TAWES STATE OFFICE BUILDING, D-4  
ANNAPOLIS, MARYLAND 21401  
301-269-2418 or 269-2426

SARAH J. TAYLOR, PhD  
EXECUTIVE DIRECTOR

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May 19, 1987

Dear Commission Member:

The June meeting for the Commission has been scheduled for the 3rd, from 4:00 to 6:00 p.m., at the Department of Agriculture, 50 Harry S. Truman Parkway, Annapolis, Maryland, 21401.

An agenda for the meeting is enclosed, along with the minutes of the May meeting. As the Chesapeake Bay Foundation has completed a fact sheet on Commission functions, and program development, a copy is provided for your information.

I look forward to seeing you on the 3rd of June.

Sincerely,

Solomon Liss  
Chairman

CABINET MEMBERS

SL/SJT/vn

- 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

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Minutes of Meeting Held  
May 6, 1987

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

Thomas Osborne,  
Anne Arundel Co.  
Samuel Bowling,  
Charles Co.  
Shepard Krech  
Talbot Co.  
Kay Langner  
Cecil Co.  
Ron Adkins,  
Somerset Co.  
Wallace Miller,  
Kent Co.  
William Bostian,  
Wicomico Co.  
Ron Hickernell,  
Baltimore Co.  
Constance Lieder,  
Secretary, DSP  
Torrey C. Brown  
Secretary, DNR

Ardath Cade,  
Secretary, DECD  
J. Frank Raley, Jr.,  
St. Mary's Co.  
Victor Butanis  
Harford Co.  
Thomas Jarvis  
Caroline Co.  
Ron Karasic for  
Judge Brown,  
Baltimore City  
Robert Price, Jr.,  
Queen Anne's Co.  
Parris Glendening  
Prince George's Co.  
Louise Lawrence for  
Wayne Cawley,  
Secretary, Ag.  
G. Steele Phillips,  
Dorchester Co.

The minutes of April 8th were approved with the correction of page three, "\$2.50 fee" should read "\$2.50 fee per square foot" of land area disturbed by a proposed development in the Buffer.

Chairman Liss then asked that Carolyn Watson report on the activities of the Subcommittee for developing regulations identifying those classes of applications for which the Commission wishes to receive notification. Ms. Watson discussed the final draft and opened the floor for questions and suggestions from the Commission. Because of the suggested changes, Ms. Watson proposed that the Subcommittee meet after the Commission meeting to clarify and incorporate the additional changes. The Commission then voted to accept the draft regulations as revised, to be submitted to the Maryland Register. The vote was 15:1 in favor.

Chairman Liss asked Marcus Pollock to give a status report on Baltimore City's Program. Mr. Pollock said that the

Appendices submitted to the Commission address many of the concerns that were raised by Baltimore's initial submittal. They have withdrawn both their original submittal and the recently submitted Appendices, and have asked for a 180-day extension. There had been three hearings to date on the Program. He said that the Review Panel for Baltimore City's Program had 7 concerns. The first concern was that "significant development" in the Critical Area that does not fall under the square footage criterion, but would nevertheless have an adverse impact on the water quality, would not be required to comply with the City's Program.

A second concern that was expressed, was that certain factors which should be included in a planning process for water-dependent facilities did not appear in the City's proposed Program. A third issue was that the panel wanted to see the design features of the public promenade which would be consistent with Chapter 14.15.09.C.(8). As a fourth issue, the Commission requires that the decision regarding non-structural and structural measures for shore erosion, must be based on the extent of erosion in the area. The shore erosion protection program, as submitted by the City, does not clearly indicate the basis for the decision about where structural or nonstructural measures should be applied. As a fifth concern, the Grandfathering requirement has not been adequately met in the City's Program. As a sixth concern, draft language is needed for the instruments that will be used for program implementation. These include: ordinance changes; provisions for periodic inspections, maintenance and replacement of habitat protection areas; variances; marina development provisions; shore erosion protection provisions, etc. Finally, a concern was stated that building in the buffer by non-water dependent uses should be accompanied by a buffer exemption.

Mr. Glendening asked whether the Commission could approve a program if ordinances are not included. Chairman Liss answered that the Commission cannot do so. Judge Liss then asked for a vote by the Commission to give him the authority to grant Baltimore City the requested 180-day extension, once a formal request is received by the Commission. The vote was 16:0.

Chairman Liss then asked Dr. Sullivan to give a status report on the Forestry paper and congratulated him on the work that was done in producing the Non-Tidal Wetland Guidance Paper. Dr. Sullivan said that the Non-Tidal Wetlands paper will be sent to the local jurisdictions within the next 2 weeks. He said that the goal of the Forestry paper is to clarify the criteria requirements and give technical details for implementation. It includes forest incentive programs for local jurisdictions, a discussion of Forest Management Plan preparation, urban forestry, and the review of new development applications by the Forest, Park and Wildlife Service. He said that the draft is currently undergoing agency review and a revised version will be distributed to the Commission at the June meeting.

Dr. Taylor then distributed the paper on the procedure for preparation of public hearings and explained the process.

Ms. McCleary distributed the Water Quality Informational Report. She explained that the contents of the report provide information on the five divisions in the Office of Environmental Programs/Department of Health and Mental Hygiene.

#### Under New Business

Chairman Liss opened the floor for nominations for Vice-Chairman of the Commission. Robert Price was nominated and selected unanimously.

#### Under Old Business

Chairman Liss gave a report on the Subcommittee for County/Municipal relations. He said that the meeting went well, and that the Subcommittee might be a useful sounding board for disputes between the Counties and Municipalities. Because of the potential effectiveness of the Subcommittee, he asked whether the Commission should continue to offer its services as a continued sounding board. A motion was made and seconded to allow the Commission staff to write to all local jurisdictions to offer this service. All were in favor, 16:0.

Chairman Liss then reported on the success of the Commission's Workshop on May 1, 1987 (80 persons attended) and congratulated the efforts of Marcus Pollock and Eran Feitelson to bring the conference into being.

There being no further business, the meeting was adjourned.

AGENDA

CHESAPEAKE BAY CRITICAL AREA COMMISSION

Maryland Department of Agriculture  
50 Harry S. Truman Parkway  
Annapolis, Maryland 21401

June 3, 1987

Approval of May 6th Minutes	Solomon Liss, Chairman
Final Approval on State and Local Agency Program Regulations	Kevin Sullivan
Status of Forest Management Guidance Paper	Kevin Sullivan
Prince George's County -	Parris
Geographic Information System Display	Glendenning
Economic Baseline Study Presentation	Rutgers Univ. and Marcus Pollock
OLD BUSINESS	
MOU with Department of Transportation	Kevin Sullivan
NEW BUSINESS	

# CHESAPEAKE BAY FOUNDATION FACT SHEET

## SUPPORT THE CRITICAL AREAS PROGRAM

### THE ACT

In 1984, the Maryland General Assembly passed the Critical Area Act. The Act recognized that human activities on the land adjacent to the Bay have the greatest potential for affecting water quality and fish, plant and wildlife habitat in the Bay. The Critical Area was defined by the Act as a strip of land along the tidal shoreline extending 1,000 ft. landward from the water's edge, or from the landward boundary of any adjacent wetland.

### THE COMMISSION

The Act called for the formation of a 25-member commission to develop criteria to guide future land use in the Critical Area. The Act gives the Commission the power to adopt criteria, approve local programs and intervene in local planning decisions that are contrary to the local program.

The Commission is composed of appointed representatives from government agencies and private interest groups representing all affected shoreline jurisdictions. The Commission consists of 25 members, including the Chairman who is appointed by the governor. Eleven members are elected or appointed officials and eight members are from the private sector. The Secretaries of the State Agricultural, Economic and Community Development, Health and Mental Hygiene, Natural Resources, and State Planning Agencies are also represented on the Commission. Members of Commission serve staggered four year terms. The Chairman is assisted by an executive director and a staff as provided in the state budget. For administrative purposes, the Commission is located in the Department of Natural Resources.

### CURRENT STATUS

During 1984 and 1985, the Commission developed criteria to direct future development and protect habitat and water quality in the critical area. These criteria were approved by the 1986 General Assembly and adopted as regulations under the Annotated Code of Maryland, Natural Resources Article 8-1808(d). Local jurisdictions (16 counties and 44 municipalities) within the Critical Area are now required by law to develop a local Critical Area Program based on these criteria and submit it to the Commission for approval.

Although the Act required local programs to be submitted by February 1987, all jurisdictions, except Baltimore City, have filed for an extension. With the extension, local programs must be submitted by August 6, 1987 and the Commission must review and approve or disapprove them within 90 days. Local jurisdictions will be given ample time to revise their programs if they are not accepted by the Commission, but in all cases local programs must be in place by June 11, 1988.

# SAVE THE BAY

# CRITICAL AREA PROGRAM CRITERIA

(Summary)

The criteria are organized according to three resource management issues: development activities, resource utilization and resource protection.

## DEVELOPMENT ACTIVITIES

The criteria require local jurisdictions to divide the Critical Area into three development zones. The criteria provide minimum standards for development in each of the three zones. The characteristics of the three areas and the criteria applying to each are summarized below.

### 1. INTENSELY DEVELOPED AREA (IDA)

These areas are already in predominantly high density residential, industrial or commercial uses.

#### Characteristics:

These areas have at least one of the following features:

1. Housing density is equal to or greater than 4 dwelling units per acre.
2. Concentration of industrial, institutional or commercial uses.
3. Public sewer and water with greater than 3 dwellings per acre.

#### Specific Criteria:

- » New and existing development must reduce stormwater runoff and sediment problems.
- » Redevelopment must reduce non-point source impacts to streams and tidal waters.
- » Local jurisdictions are to develop programs which will conserve fish, plant and wildlife habitats.

### 2. LIMITED DEVELOPMENT AREAS (LDA)

These areas have a mix of development and natural habitat.

#### Characteristics:

These areas have at least one of the following features:

1. Housing density between 1 dwelling unit per 5 acres and 4 dwelling units per acre.
2. Areas not dominated by agriculture, wetlands, forest, or open space.
3. Areas with public water or sewer, or both.

#### Specific Criteria:

- » Existing forest land cleared must be replaced on at least an acre-for-acre basis.
- » Development cannot remove more than 20% of the forest cover without special provision.
- » Man-made impervious areas limited to 15% of the site.
- » No development on slopes of 15% or greater.
- » Clustering of dwelling units encouraged in order to conserve fish, plant and wildlife habitats.

### 3. RESOURCE CONSERVATION AREAS (RCA)

In these areas, wetlands, forests and farms predominate.

#### Characteristics:

These areas have at least one of the following features:

1. Housing density is less than 1 dwelling unit per 5 acres.
2. Dominant land use is agriculture, wetlands, forest, barren land, surface water or open space.

#### Specific Characteristics:

- » Residential development within this area shall not exceed a density of one dwelling unit per 20 acres.
- » Local programs should encourage agriculture and forestry.
- » 5% of a jurisdiction's land area classified as RCA can be designated for future growth to accommodate additional intensely developed and limited development areas.

### GRANDFATHERING

The criteria provide guidelines for the grandfathering of lots and subdivisions that are already recorded or approved. The guidelines allow construction of a single family home on previously recorded lots, if a house does not already exist.

### VARIANCE

The criteria give local jurisdictions the authority to grant exemptions to the criteria in special cases. This provision was included to provide flexibility in cases of hardship.

## RESOURCE UTILIZATION

### FORESTRY

- » A forest management plan is required for commercial tree harvest operations that affect 1 or more acres and occur within a 1 year interval.
- » No commercial harvesting is allowed within 50 ft. of mean high water of the Bay or its perennial tributary streams, but cutting for personal use and for other limited reasons is allowed.
- » Only Loblolly Pine or Tulip Poplar may be clear-cut in the areas between 50 and 100 ft. of mean high water. Other species may be selectively cut within the 50-100 ft. area.

### AGRICULTURE

- » All farms in the Critical Area must have soil and water management plans within five years.
- » Farmers must have a 25 ft. filter strip along tidal waters and streams at least until a soil conservation and water quality management plan is implemented.
- » The feeding or watering of livestock cannot occur within 50 ft. of the water's edge. Grazing is allowed in that area.

### WATER DEPENDENT FACILITIES

Commercial and recreational activities that require a waterfront location are permitted in the Critical Area so long as adverse environmental impacts are minimized. In addition:

- » New marinas are allowed in all areas except resource conservation areas.
- » Community and private piers are allowed in the Critical Area, but new developments must choose one or the other.

## RESOURCE PROTECTION

### HABITAT

- » Local jurisdictions will be required to identify and protect special wildlife and plant habitats including fish spawning grounds, non-tidal wetlands, endangered species habitat, colonial bird nesting sites, historic waterfowl staging and concentration areas and riparian forests.
- » Development sites must incorporate a wildlife corridor system to provide continuity for existing habitat.

### BUFFERS

- » A minimum 100 ft. vegetated buffer along tidal waters and streams is required for all new development in all areas.
- » Private and community piers are allowed in the buffer.
- » Water dependent facilities, such as marinas or highly developed areas may be exempt.
- » Certain areas may be exempted from the buffer.
- » A 25 ft. buffer must be established around non-tidal wetlands.
- » Commercial harvesting is not permitted in the buffer within 50 ft. of tidal waters, wetlands and tributary streams.

Copies of the Critical Area law and the complete criteria are available from either the Critical Area Commission or Chesapeake Bay Foundation.

## HOW WILL THE CRITERIA AFFECT YOU?

**IF YOU OWN A HOUSE** in the Critical Area, the criteria will most likely not affect you, but you are encouraged to find out more about the ways you might be impacting the Bay and its fish, plant and wildlife habitats.

**IF YOU OWN AN UNDEVELOPED LOT** in the Critical Area and plan to build a house:

- » Under the "grandfathering" provisions of the criteria, the construction of a house on a recorded parcel of land is permitted.
- » When your house is built, you will be required to take steps to minimize adverse environmental impacts.

**IF YOU PLAN TO SUBDIVIDE** land in the Critical Area, you will have to meet the density requirements and performance and design standards required by the criteria.

**IF YOU PLAN TO BUILD A PIER** you are allowed to build one in all areas except new subdivisions which have community piers.

**IF YOU FARM** in the Critical Area, you must have a soil conservation and water quality plan within 5 years and provide for a 25 ft. filter strip until the plan is implemented.

**IF YOU HAVE LIVESTOCK** they can be grazed anywhere in the critical area but no feeding or watering facilities can be located within 50 ft. of the water.

**IF YOU HARVEST TIMBER FOR PURPOSES OF COMMERCIAL SALE** in the Critical Area, you must have a forest management plan and you cannot harvest trees within 50 ft. of tidal waters and perennial streams.

## FOR MORE INFORMATION

### CHESAPEAKE BAY FOUNDATION

Steve Bunker, Sandy Hillyer  
or Ann Pesiri Swanson  
162 Prince George Street  
Annapolis, MD 21401  
(301) 268-8816 (Annapolis)  
269-0481 (Baltimore)  
261-2350 (Washington)

### CRITICAL AREA COMMISSION

Judge Solomon Liss  
or Dr. Sarah Taylor and staff  
Tawes Office Bldg. D-4  
Taylor Avenue  
Annapolis, MD 21401  
(301) 269-2418  
269-2426

# LOCAL ROLE IN PROGRAM DEVELOPMENT

The success of the entire Maryland Critical Area Program rests with the development of effective local programs. *This is also the area in which citizen input can be most important.*

The Critical Area Act provides for citizen input by requiring the local jurisdiction to hold a public hearing before submittal of the local program to the Commission. In addition, a public hearing must be held by the Commission itself in the local jurisdiction before the Commission approves the local program. These and other relevant public hearings should be advertised in the local paper, or call your local planning department for a schedule.

The importance of well-informed citizen participation in the development of local programs cannot be stressed enough. CBF BayWatchers, local community associations and other interested citizens can perform a crucial role in assuring that the local program is consistent with the criteria and meets the goals and spirit of the Act.

There are certain issues which citizens should pay particular attention to when reviewing the local program.

Local citizens can insure that Critical Area maps accurately depict the three development areas and that inventory maps are adequate to protect environmentally sensitive and unique areas. In addition, the location and allocation of the 5% growth allowed in the RCA must be clearly defined, as well as a clear enumeration of all new development approved in the Critical Area since Dec. 1, 1985, which may be converted against the 5% growth allowance. Finally, citizens should insure that all necessary plans and ordinances are updated to incorporate the local Critical Area Programs and provide for enforcement.

CBF has developed a series of fact sheets to assist local citizens in becoming more involved in local Critical Area program development. They include a Citizen's Guide to Local Planning and Zoning, a matrix which provides a detailed but easily understood summary of the criteria, and county fact sheets providing information on the local Critical Area Program schedule and contacts within your local planning agencies. Contact CBF at the address provided on this fact sheet for copies.

## It's time to get involved!



CHESAPEAKE BAY FOUNDATION

**BAYWATCHERS**

Maryland:

Chesapeake Bay Foundation  
162 Prince George Street  
Annapolis, MD 21401  
(301) 268-8816 (Annapolis)  
(301) 269-0481 (Baltimore)  
(301) 261-2350 (Washington)

Virginia:

Suite 815, Heritage Building  
1001 E. Main Street  
Richmond, VA 23219  
(804) 780-1392

Pennsylvania:

412 North 2nd Street  
Harrisburg, PA 17101  
(717) 234-5550

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