

MINUTES

**Critical Area Commission for the
Chesapeake and Atlantic Coastal Bays
1804 West St., Suite 100
Annapolis, MD 21401**

June 4, 2025

CALL TO ORDER: Chair Erik Fisher called the meeting to order at 1:00 p.m.

Commission Members in Attendance:

Tim Adams, Prince George's County
David Bradford, Worcester County Chesapeake
Steve Bunker, Charles County
Dan Burris, St. Mary's County
Ben Etherton, Talbot County
Jenelle Gerthoffer, Worcester County – Coastal/Town of Ocean City
Allison Gost, Department of Transportation
Anita Grant, At Large
Rosa Hance, At Large
Debbie Herr-Cornwell, Department of Planning
Catherine McCall, Department of Natural Resources
Travis Marion, Cecil County
Alisha Mulkey, Department of Agriculture
Jim Palma, Department of Commerce
Annie Richards, Kent County
Tammy Roberson, Department of Environment
Brian Roche, Dorchester County
Lisa Rodvien, Anne Arundel County
Dave Wilson, Worcester County Coastal
Pat Young, Baltimore County

Commission Members Not in Attendance:

Mark Conway, Baltimore City
Earl "Buddy" Hance, Calvert County
Mira Morgan, Department of Housing and Community Development
Hitesh Patel, Somerset County
Larry Porter, Caroline County

OPENING REMARKS

Chair Fisher called the meeting to order and welcomed everyone. He announced that the meeting was being held virtually and was being live-streamed on our YouTube channel. Dr. Nick Kelly conducted a roll call to confirm a quorum.

APPROVAL OF MINUTES

Commissioner Etherton moved to approve the minutes from the April 23, 2025 meeting. Commissioner Palma seconded. **Motion carried unanimously.**

ITEMS FOR VOTE

SUMMARY REPORT – Maryland Department of Transportation Maryland Port Administration (MDOT MPA) – Cox Creek STAR Facility Remediation and Development Middle Settling Basin Stockpile

Presented by Jamileh Soueidan. Project Committee recommendation: Approval with Conditions.

Ms. Soueidan presented in accordance with the staff report, the contents of which are incorporated into and made part of the minutes. The Maryland Port Administration (MPA) is proposing site improvements including environmental remediation efforts at the Cox Creek STAR Facility, located at 3901 Fort Armistead Road in Baltimore City and in Anne Arundel County. The proposal includes the removal of existing vegetation around the Middle Settling Basin and using the site as a temporary stockpile area, which serves as an intermediate remediation step for soil consolidation. The stockpile will be comprised of borrow material from the neighboring Cox Creek Dredge Material Containment Facility (DMCF) for additional capacity benefits. Given that a portion of this project is located within the Critical Area requires 2.49 acres of clearing, this project exceeds the parameters of Category II review under Exhibit A4 of the MDOT/CAC MOU. Therefore, review and approval by the Critical Area Commission is required.

Following the presentation, Ms. Soueidan turned the floor over to Chair Fisher, who recognized Project Committee Vice-Chair Roberson. Commissioner Roberson moved on behalf of the Project Committee to approve the proposed project with conditions. Commissioner Grant seconded the motion. **Motion carried unanimously.**

SUMMARY REPORT – Maryland Transportation Authority – Fort McHenry Tunnel Police Vehicle Storage Building

Presented by Kate Durant. Project Committee Recommendation: Approve with Conditions.

Ms. Durant presented in accordance with the staff report, the contents of which have been incorporated into and made part of the minutes. The Maryland Transportation Authority is seeking approval to construct a police vehicle storage building near the Fort McHenry Tunnel in Baltimore City. The proposed building will be constructed entirely within the MDTA right-of-way, near the intersection of Keith Avenue and Leland Avenue, and approximately two-thirds of the proposed building will be located in the Critical Area. The proposed building will include six maintenance bays, as well as permanent storage for various types of police vehicles, mechanical rooms, storage rooms, break rooms, locker rooms with showers, and offices.

The project requires Commission approval because it does not qualify for approval under MDTA's existing General Project Memorandum of Understanding with the Critical Area Commission.

Following the presentation, Ms. Durant turned the floor over to Chair Fisher, who recognized Project Committee Vice-Chair Roberson. Commissioner Roberson moved on behalf of the Project Committee to approve the proposed project with conditions as outlined in the staff report. Commissioner Wilson seconded. **Motion carried unanimously.**

SUMMARY REPORT – Calvert County – Comprehensive Review

Presented by Jon Coplin. Program Committee Recommendation – Concurrence; Approval with Conditions.

Mr. Coplin presented in accordance with the staff report, the contents of which are incorporated into and made a part of the minutes. Calvert County is seeking Commission approval of its most recent comprehensive review of its Critical Area program. On February 18, 2025, the Calvert County Commissioners approved Ordinance #13-25, which repealed and replaced the County's entire Zoning Ordinance. Article 22 of the County's new approved Zoning Ordinance contains the revised Critical Area program.

Following the presentation, Mr. Coplin turned the floor over to Chair Fisher, who asked for a motion from Program Committee Chair Bunker. Commissioner Bunker moved that the proposal be accepted as a refinement to Calvert County's Critical Area Program. Commissioner Adams seconded. All voted in favor. Chair Fisher thanked the Commission and stated that this would stand as his final decision.

SUMMARY REPORT – Somerset County – Text Amendment: RCA Uses – Special Events (Refinement)

Presented by Maggie White. Program Committee Recommendation – Concurrence; Approval with Conditions.

Ms. White presented in accordance with the staff report, the contents of which are incorporated into and made part of the minutes. Somerset County is requesting approval by the Critical Area Commission of a text amendment to allow Special Events as an approved use within the Resource Conservation Area (RCA). On March 11, 2025, the Board of County Commissioners of Somerset County approved Ordinance #1207, which amends the county's Critical Area Ordinance to include the definition of Special Events, adds Special Events to the Resource Conservation Area (RCA) use list, and includes standards that must be met to allow the use.

Following the presentation, Ms. White turned the floor over to Chair Fisher, who asked for a motion from Program Committee Chair Bunker. Commissioner Bunker moved that the proposal be accepted as a refinement to Somerset County's Critical Area Program. Commissioner Rodvien seconded. All voted in favor. Chair Fisher thanked the Commission and stated that this would stand as his final decision.

SUMMARY REPORT – Anne Arundel County – Text Amendment: Agritourism

Presented by Jamileh Soueidan. Program Committee Recommendation – Concurrence; Approval with Conditions.

Ms. Soueidan presented in accordance with the staff report, the contents of which are incorporated into and made part of the minutes. Anne Arundel County is requesting approval of a text amendment related to *Farm or Agricultural Heritage Site Special Events* and *Farm or Agricultural Heritage Site Stays* within the Critical Area's Resource Conservation Area (RCA). On June 17, 2024, Anne Arundel County Council approved County Bill No. 57-24 which amends Article 18 of the Anne Arundel County Zoning Ordinance. The bill adds certain requirements for special events and site stays associated with farms or agricultural heritage sites and adds those uses to the list of approved RCA Uses. Chair Fisher determined the change to be a refinement and is seeking concurrence from the Program Committee. Commission staff further recommended approval of the text amendment as proposed.

Following the presentation there was a brief discussion, during which Commissioner Hance and Chair Fisher asked for, and received, clarification about definitions, from Anne Arundel County planners Sterling Seay and Lynn Miller. Chair Fisher then asked Program Committee Chair Bunker for a motion. Commissioner Bunker

moved that the proposal be accepted as a refinement to Anne Arundel County's Critical Area Program. Commissioner Mulkey seconded. All voted in favor. Chair Fisher thanked the Commission and stated that this would stand as his final decision.

INFORMATION ONLY: Regulations – New Enforcement Regulation, Project Applications and Notice
Presented by Kate Durant and Lisa Hoerger.

At the April 23, 2025 meeting, new draft regulations were presented to the Commission with the plan to vote on Permission to Publish as Proposed in the Maryland Register at the June meeting. Since then, comments were received, and the draft regulations have been revised to reflect those comments. Chair Fisher explained the draft regulations were not up for a vote today but for discussion, and staff will do a quick refresher, and then an overview of the public comments received.

Kate Durant presented a quick overview of the goals, objectives, and minimum requirements of the draft enforcement regulations in accordance with the staff report, the contents of which are incorporated into and made part of the minutes. Ms. Durant said that comments were received by Baltimore City and Baltimore County and based on those comments staff are suggesting some updates to the draft regulations. One comment was a request for a clarification of the definition for "violations". The question was whether a violation consisted only of grading without a permit or grading beyond the allow limits of an already approved permit. Therefore, staff are proposing to add language to clarify that a violation means both grading in the Critical Area without a permit and grading in the Critical Area beyond the allowable limits of a permit.

Another question was about the difference between a State forester and a registered professional forester. Staff are proposing to update the draft to be more aligned with the Natural Resources statute which has been more recently updated by the Department of Natural Resources (DNR). The statute now refers to a licensed professional forester, rather than a registered professional forester, so staff is proposing that change. Staff are also adding "or other qualified professional approved by the Department of Natural Resources." This is proposed to allow a person who has a professional approval from DNR to be allowed to prepare restoration or mitigation plans that are part of enforcement actions. Ms. Durant noted that staff made these proposed changes in collaboration with input from DNR.

The final change is based on a request from Baltimore City and Baltimore County. The concern was if an approval of a mitigation or restoration plan occurs during the winter or not an ideal planting season, that additional time be allotted to allow for the planting to occur beyond 90 days. Staff are adding that language to the draft to address these instances that states, "...unless an extension of time is appropriate because of adverse planting conditions, not to exceed an additional 90 days." This will result in a total of 180 days from the time the mitigation is required to complete the required plantings.

Rosa Hance commented that she liked the edits the City and County shared, and that the comments provided additional clarification and were very helpful.

Lisa Hoerger next presented a quick overview of the goals and objectives the draft Project Application and Notice Regulations in accordance with the staff report, the contents of which are incorporated into and made part of the minutes.

Chair Fisher reminded the Commission that we have a more comprehensive set of regulations on our agenda over the next months stemming from HB 1470, otherwise known as Chapter 424. The legislature directed the

Commission to develop regulations on climate impacts and equity considerations, and the legislature specifically defined public participation as a component of equity, and equity is defined very broadly to insure fairness and access in participation.

Chair Fisher said the Commission will have a solid framework to have a more robust discussion about public participation generally coming up in the next few months. He said the set of regulations being discussed today are a special proposal to deal with some inconsistencies between regulations and our procedures in terms of when and how the Commission is currently running meetings. Therefore, this set is limited in scope but the Commission will be taking a much broader look at public participation moving forward.

Ms. Hoerger stated that comments on the draft regulations were received by Baltimore County, Dorchester County, the Chesapeake Bay Foundation, and several Commission members.

The first comment was a simple formatting question about brackets that appeared within the bolded, repealed brackets and she explained this is to show a repeal of outdated regulations that included bracketed text.

Ms. Hoerger then presented a quick review of the Commission's public comment process when a State or local government is proposing a project on State or locally owned lands. The current process is to require publication in a newspaper and also have signage posted on the property. These actions must be completed at least 14 days prior to the Project Committee meeting. State or local staff provide the Commission staff with any comments received which are then passed along to the Project Committee.

One comment received was to reconsider whether the 14-day window is sufficient time to provide comments. The second comment received was to consider whether publishing in a newspaper is still necessary or can website postings suffice for public notice. Ms. Hoerger then turned the discussion over to Chair Fisher who asked for comments and questions.

Rosa Hance commented on the length of time for public comments. She thought 14 days is a tight turnaround particularly for certain organizations that may wish to comment but might not meet in enough time to discuss comments. She said that while newspapers are not the only type of media, removing newspapers was not the right direction. She would like to see additional ways for the public to be notified. She also was curious what other commissioners would think of moving towards a standard that provides for more easy visibility and more plain language so most readers can understand the project.

Steve Bunker suggested to defer to what counties are already doing regarding public notice since the counties are already dealing with various planning and zoning issues that require public notice and therefore should be consistent. The Commission should use the same practices since the public is accustomed to those local practices.

Mayor Adams agrees with previous comments including keeping newspapers. He said to consider enhancing or adding other digital media to expand on outreach and not consider doing away with any current practice, like newspapers.

Chair Fisher thinks publishing in a newspaper is still a good idea based on the discussion. He also noted that using plain language and working towards a standard template at some point was also heard and will be considered in future discussions. The amount of time concerning the 14-day notice requirement, and increasing it, is a bit of a balance because the longer the time period for public comment is extended, the less time Commission staff has to work with the newly submitted project and determine if it is ready to come to the

Commission. But at same time, he shares that 14 days can be extremely challenging, especially for an organization, as Commissioner Hance discussed. Chair Fisher said we need to find a way to make sure the public has an opportunity for comment without unduly burdening a local government's timing for a project review with the Commission. He said his experience in State government is 21- 30 days for public comment and that the Maryland Department of the Environment (MDE) usually has a 30-day comment period.

Commissioner Roberston said that MDE typically matches the Commission's 14 days as long it is not an emergency and typically allow projects to remain on notice for 30 days for public comment. MDE also uses newspapers. She said MDE has a dedicated website for public notices and there are projects that reach out to interested persons and adjacent properties that receive mailings of the project description and related plans.

Commissioner Hance appreciated Commissioner Roberson's comments, and the Commission should consider adding more public notice to our process, and that adding adjacent properties make sense. She said a project reviewed a year ago was posted but not in a place for the public to see the sign. She suggested that the Commission consider providing an exception when a site might not be visible to the public, like posting the notice on adjacent properties or on publicly accessible land closer to the project. Another idea would be notification of the public on the Commission's website that an application was received from a jurisdiction, even if the committee was not voting yet.

Chair Fisher said, concerning the website, he would like to hear from the staff how posting on the website would play out. If staff received questions or comments early on, Commission staff may still have to bounce back questions to the local staff since staff might not have had time to review it yet. He said there are also some technical issues to work out between now and the next meeting.

Chair Fisher said that next month the Commission will hear the draft regulations. He thanked all who took time to review and comment including the local jurisdictions and other interested parties.

LEGAL UPDATE

Presented by Assistant Attorney General Emily Vainieri. There are no substantive changes in the status of the two previously presented cases from April.

OLD BUSINESS

VOTE: Town of Easton – Cohee Growth Allocation – Second Extension Request

Presented by Annie Sekerak, AICP.

Given ongoing processing delays with the local review process, the Town is requesting an additional 180-day extension to meet Condition #3. Therefore, the new deadline for this condition would be December 1, 2025. Commissioner Etherton moved to approve granting the extension. Commissioner Grant seconded. **Motion passed unanimously.**

Additional Notes

- Chair Fisher announced
 - Five staff (Jennifer Esposito, Nick Kelly, Susan Makhlof, Annie Sekerak, and Charlotte Shearin), had recently achieved AICP certification, and congratulated them for the achievement;
 - Three upcoming planned field day opportunities will be available for Commissioners, beginning with the June 11 day at Conquest Beach in Queen Anne's County;

- The next Lunch and Learn will be June 20 – Comprehensive Review of local Critical Area programs; and
- The Next Commission meeting is July 9.

Meeting adjourned.

Lynette Fullerton, Commission Secretary

Date of Approval