

# MINUTES

**Critical Area Commission for the  
Chesapeake and Atlantic Coastal Bays  
1804 West Street, Suite 100  
Annapolis, Maryland**

**May 1, 2024**

**CALL TO ORDER:** Chair Erik Fisher called the meeting to order at 1:00 p.m. The meeting was held virtually on MSTeams.

**Commission Members in Attendance:**

Steve Bunker, Charles County  
Mark Conway, Baltimore City  
Jenelle Gerthoffer, Worcester County – Coastal/Town of Ocean City  
Anita Grant, At Large  
Rosa Hance, At Large  
Debbie Herr-Cornwell, Department of Planning  
Mike Hewitt, St. Mary's County  
Shawn Kiernan, MDOT  
Catherine McCall, Department of Natural Resources  
Michael McCarthy, Talbot County  
Travis Marion, Cecil County  
Mira Morgan, Department of Housing and Community Development  
Alisha Mulkey, Department of Agriculture  
Jim Palma, Department of Commerce  
Larry Porter, Caroline County  
Annie Richards, Kent County  
Tammy Roberson, Department of Environment  
Brian Roche, Dorchester County  
Pat Young, Baltimore County

**Commission Members Not in Attendance:**

Tim Adams, Prince George's County  
Earl Hance, Calvert County  
Hitesh Patel, Somerset County  
Lisa Rodvien, Anne Arundel County

**OPENING REMARKS:** Chair Fisher welcomed everyone to the virtual meeting and explained the procedures. Ms. Kate Charbonneau confirmed a quorum with a roll call.

**APPROVAL OF MINUTES:** Commissioner Grant moved to approve the minutes from the March meeting. Commissioner Roberson seconded. Motion passed unanimously.

**STAFF PRESENTATIONS**

**REGULATIONS:**

**Comprehensive Regulatory Clean-Up of COMAR Title 27, Subtitles 01, 02 and 03.**

Presented by Lisa Hoerger and Kate Durant.

Ms. Hoerger recognized Ms. Durant, who provided a summary of the proposed regulatory package which is intended to modernize all of Title 27. Ms. Durant stated that despite prior efforts, this final comprehensive update is required to capture and modernize all of the text. The purpose of these most recent updates is to accomplish the following:

- Repeal outdated provisions or definitions that are not used in the text (the original provisions were enacted in 1986).
- Perform stylistic changes (bring text up to current Division of State Documents standards).
- Add new definitions.
- Clarify or make corrective changes. These changes are summarized in the memorandum.

Following this, Ms. Hoerger summarized comments received from local jurisdictions. The draft regulations were sent out to all local government partners that administer the Critical Area programs in the local jurisdictions. She only received feedback from Prince George's and Anne Arundel Counties. Prince George's County sent several questions related to items such as definitions and clustering provisions, and general editing critiques. They specifically wanted clarification on the definition of clearing. Anne Arundel County made suggestions for edits to lot consolidation and reconfiguration regulations, asking that only contiguous parcels be considered. CAC staff determined that this issue could be addressed at a later date as it would involve greater consideration of those specific regulations than is currently meant through this draft.

CAC staff is proposing a change to the clearing definition in this draft as a result of the comments. The proposed change to the definition of clearing is as follows: "an activity that removes a tree, forest, developed woodland, or vegetative cover from the land. Clearing includes removing trees and leaving stumps."

Commissioner R. Hance asked for additional clarification on the definition of 'clearcutting'. Ms. Hoerger indicated that the definition isn't new, just more plainly spelled out to specify more types. Commissioner Hance suggested a further edit to the proposed text which is to replace the phrase 'with tree reproduction obtained by' with "of trees reproduced by". This was acceptable to staff.

Finally, Commissioner R. Hance asked one final question related to the definition of stormwater runoff, which includes the destruction of forest. Commissioner Hance wondered if the definition could be refined to include individual trees. Staff suggested using the phrase 'developed woodland' since that definition does include an individual tree.

Chair Fisher asked for further discussion. Hearing none, he asked for a motion from the floor. Commissioner Marion motioned to accept the proposed comprehensive regulatory package with the three amendments as amended. Commissioner Hance seconded. Motion passed unanimously.

The next step in this process will be to submit the proposal to the Legislative Review Committee, which takes a little more than 90 days, after which it would be published in the Maryland Register.

**CONSENT CALENDAR:**

All three items from the Project and Program subcommittee meetings are eligible for consent, beginning with the Project subcommittee.

**PROJECT SUBCOMMITTEE: Mitigation Banking Memorandum of Understanding (MOU) (Queen Anne's County)**

Subcommittee Recommendation: Approve

Hearing no discussion or request for presentation, Chair Fisher asked for a motion to approve. Commissioner Conway so moved. Commissioner Marion seconded. One abstention (Commissioner Richards). All others voted in favor. Motion passed.

**PROGRAM SUBCOMMITTEE: Refinement – Modified Buffer Areas for Marinas/Restaurants Text Amendment (Baltimore County)**

Subcommittee Recommendation: Concur with Refinement and Approve

Commissioner Hance requested a summary presentation of the proposed refinement. Ms. Makhoulf provided a brief presentation giving an overview of the text amendment. There were no additional questions. Chair Fisher asked for a motion to approve the refinement. Commissioner Young so moved. Commissioner Hance seconded. All voted in favor. Chair Fisher thanked the Commissioners for their recommendation, and said this would stand as his final decision.

**Refinement – Nonwater-dependent Structures on Piers Text Amendment (Baltimore City)**

Subcommittee Recommendation: Concur with Refinement and Approve

Hearing no discussion or request for presentation, Chair Fisher asked for a motion to approve. Commissioner Bunker so moved. Commissioner Grant seconded. All in favor. Chair Fisher acknowledged the motion and said this would stand as his final decision.

**OLD BUSINESS:**

**Passage of HB233/SB306 and SB268**

Chair Fisher said that he was happy to talk about the passage of House Bill 233/Senate Bill 306 and Senate Bill 268. The bills focus primarily on helping the Commission prepare for the impacts of climate change, which are already being felt in the Critical Area. With these bills, we will be better equipped to do so in an equitable manner. It also includes a series of administrative improvements. He then asked Lisa to provide an overview of the laws, for the Commissioners to become more familiar with them and in case they have questions from local governments and constituents.

Ms. Hoerger first talked about SB268, which is known as the enforcement bill. It was not cross-filed so there is no HB number. 1) It clarified penalty provisions and eliminated a 30 day response period until the Chair can inform the Attorney General of any egregious violations. 2) It clarified when the AG can take an enforcement action. Ms. Hoerger turned the floor over to Ms. Kate Charbonneau to explain HB233.

Ms. Charbonneau explained HB 233/SB306 – Climate, Equity, Administrative Provisions, targeted three types of changes. One, it incorporated coastal resiliency considerations into the law so that we can start to develop tools and mechanisms to help do this at the local level as well as at the state level. Two, it also includes consideration for equity and environmental justice. Finally, it makes administrative changes for local jurisdictions and some of that will result in regulatory changes and local program updates.

Ms. Hoerger then summarized the third prong of the bill, which has to do with administrative provisions, meaning how we give local governments and the Commission tools to help advance local programs.

- It extends the Comprehensive Review interval from 6 to 10 years.
- It requires Comprehensive Reviews be complete within 3 years of the 10 year due date.
- Finally, it allows comprehensive map updates with comprehensive rezoning.
- Local governments will now have to track and report various fee-in-lieu funds.
- It clarifies accessory dwelling unit provisions.
- It provides more flexibility for lot coverage.
- Clarifies standards for mapping mistakes.

Ms. Charbonneau said she wanted to touch on how the Commission plans to work with the local partners to help implement the new changes. First, we will update and keep current our model ordinances which provide feedback and guidance on how to do comprehensive reviews. More importantly, will be looking at local grant funding and implementation assistance to local governments for carrying out their Critical Area programs. Part of the funds will be provided on an annual one time basis to cycle through and provide assistance to all of our jurisdictions that are out of date with their comprehensive reviews, with the idea that all comprehensive reviews will be up-to-date. The same idea will be used with local governments updating coastal resiliency and environmental justice provisions. Staff are working with local governments to provide education, which is an ongoing need. Also hoping to provide some limited mapping assistance as needed. Finally, she said the Commissioners will be asked for participation and assistance with work groups.

Chair Fisher acknowledged that this might seem like a big shift, but that it's also a natural evolution of our work as the Commission. He thanked the staff, the Commissioners, partner agencies, MACO, MML, and of course the Governor's office for their support.

#### **NEW BUSINESS:**

Chair Fisher expressed his appreciation for outgoing Commissioner Mike Hewitt, who served on the Commission for 9 years. He announced that there are going to be some new Commissioners over the next month or two. After thanking everyone for their attendance, he said he's looking forward to seeing many people at the retreat on May 15 in St. Michaels.

**Meeting adjourned 1:57 p.m.**



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Lynette Fullerton, Commission Secretary

June 12, 2024

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Date of Approval